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# JPRS Report
## Supplement



# East Europe

## Recent Legislation

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*JPRS-EER-91-158-S* *22 October 1991*

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## Law on Constitutional Court

*91BA1031A Sofia DURZHAVEN VESTNIK in Bulgarian 16 Aug 91 No. 67 pp 1-3*

["Text" of Law on the Constitutional Court]

[Text]

**Grand National Assembly**

**Ukase No. 246**

In accordance with Article 98, point 4, of the Constitution of the Republic of Bulgaria, I hereby

**Resolve:**

The publication in DURZHAVEN VESTNIK of the Law on the Constitutional Court adopted by the Grand National Assembly on 30 July 1991.

Issued in Sofia on 9 August 1991 and stamped with the state seal.

President of the Republic: Zhelyu Zhelev

### Law on Constitutional Court

### Chapter 1

### General Stipulations

**Article 1.** (1) The Constitutional Court guarantees the supremacy of the Constitution.

(2) The Constitutional Court is independent of the legislative, executive and judicial authorities and is guided exclusively by the stipulations of the Constitution and the present law.

**Article 2.** The seat of the Constitutional Court is in Sofia.

**Article 3.** The Constitutional Court has an independent budget.

### Chapter 2

### Organization, Structure, Composition

**Article 4.** (1) The Constitutional Court consists of 12 justices, one-third of whom are appointed by the National Assembly, a second third by the president of the Republic and the last third by the general assembly of justices of the Supreme Court of Appeals and the Supreme Administrative Court.

(2) The term of office of every justice is nine years.

(3) Members of the Constitutional Court must be Bulgarian citizens who hold no other citizenship and who meet the stipulations of Article 147, paragraph 3, of the Constitution.

**Article 5.** (1) Three months prior to the expiration of the mandate of the respective justices, the chairman of the Constitutional Court requests the chairmen of the National Assembly, the president, and the chairmen of the Supreme Court of Appeals and the Supreme Administrative Court to elect or, respectively, appoint new justices.

(2) The members of the Constitutional Court continue to exercise their functions until their successors have assumed office.

**Article 6.** (1) The Constitutional Court justices begin their functions by swearing the following oath: "As I assume the position of Constitutional Court judge, I swear to observe conscientiously my obligations as assigned by the Constitution and the Law on the Constitutional Court. I have sworn."

(2) The justice must swear the oath within one week after his appointment or election, in the presence of the chairman of the National Assembly, the president, and the chairmen of the Supreme Court of Appeals and Supreme Administrative Court.

(3) The Constitutional Court justices must be relieved of the positions they previously held and terminate activities incompatible with their position as per Article 147, paragraph 5, of the Constitution, within the time limit stipulated in paragraph 2.

(4) The act of the election and appointment is published in DURZHAVEN VESTNIK within 15 days.

**Article 7.** (1) The first session of the Constitutional Court, at which the court chairman is elected, is presided by the oldest justice.

(2) The court chairman is elected by the Constitutional Court justices in accordance with Article 147, paragraph 4 of the Constitution. The candidate who has obtained the votes of more than one-half of all justices is considered elected.

(3) If no candidate has obtained the necessary majority in the first round, there is a second round for the two candidates who have obtained the highest number of votes. After the second round, the candidate who has obtained the most votes is considered elected; with an equal number of votes, the candidate with longer professional experience or, with equal experience, the older candidate is considered elected.

**Article 8.** (1) The chairman of the Constitutional Court:

1. Represents the court;
2. Chairs the court sessions;
3. Handles the budget;
4. Assigns the work among the justices;
5. Appoints the chief secretary and the court personnel;
6. Guides the administrative activities of the court;
7. Promulgates the court rulings.

(2) In the absence of the court chairman, he is replaced by the oldest justice.

**Article 9.** (1) Constitutional Court justices may not be subject to penal prosecution before loosing their immunity.

(2) The immunity of a justice may be lost in cases of sufficient data about the commission of a severe malicious crime, submitted to the Constitutional Court by the prosecutor general.

**Article 10.** (1) The monthly remuneration of the chairman of the Constitutional Court is the equivalent of the mean arithmetic monthly remuneration of the president of the Republic and the chairman of the National Assembly.

(2) The remuneration of the Constitutional Court justices is 90 percent of the monthly remuneration of the court chairman.

(3) The Constitutional Court justices have the status of the chairman of the National Assembly.

(4) The Constitutional Court justices have the right to a pension after the expiration of their mandate, regardless of whether they have reached retirement age or not.

**Article 11.** (1) The mandate of a Constitutional Court justice is terminated as per Article 148 of the Constitution.

(2) The termination of the mandate as per Article 148, paragraph 1, points 2, 3, 4, and 5 of the Constitution, takes place by decision of the Constitutional Court.

(3) The termination of the mandate as per Article 148, paragraph 1, points 1 and 6 of the Constitution, must be announced by the chairman of the court.

(4) The resolutions and rulings related to terminating the mandate of a Constitutional Court justice must be published in DURZHAVEN VESTNIK within 15 days.

## Chapter 3

## Court Activities

**Article 12.** (1) The Constitutional Court:

1. Issues mandatory interpretations of the Constitution;

2. Rules on any demand relative to establishing the anticonstitutionality of the laws or other acts of the National Assembly, or else the acts promulgated by the president;

3. Settles disputes on jurisdiction among the National Assembly, the president and the Council of Ministers, as well as between local self-government bodies and central executive bodies;

4. Rules on the constitutional consistency of international treaties signed by the Republic of Bulgaria prior to their ratification, as well as on the consistency of the laws with the universally acknowledged standards of international law and international treaties to which Bulgaria is a signatory;

5. Rules on arguments on the constitutionality of political parties and associations;

6. Rules on arguments on the legality of the election of the president and the vice president;

7. Determines the circumstances as per Article 97, paragraph 1, points 1 and 2, and paragraph 2 of the Constitution;

8. Rules on arguments concerning the legality of the election of a national representative;

9. Determines the nonelectability or the incompatibility of a national representative and the exercise of other functions;

10. Rules on charges leveled by the National Assembly against the president and the vice president;

11. Lifts the immunity and determines the actual position impossibility and incompatibility of a Constitutional Court justice.

**Article 13.** The Constitutional Court decides by itself whether a question addressed to it is within its jurisdiction.

**Article 14.** (1) The Constitutional Court issues resolutions, definitions, and orders.

(2) The court issues a resolution on the essence of the dispute.

(3) The court resolutions are published in DURZHAVEN VESTNIK within 15 days of their promulgation and are enacted three days after their publication.

(4) Rulings on arguments concerning the legality of the choice of a president, vice president, or national representative, or determining the nonelectability or incompatibility of a national representative, as well as the actual impossibility to perform obligations and incompatibility of a Constitutional Court justice become valid as of the date of the adoption of the ruling.

(5) The court's rulings are final.

(6) The court's rulings are mandatory for all state authorities, juridical persons, and private citizens.

(7) The court acts, together with their motivations are published in a yearbook.

**Article 15.** (1) The Constitutional Court meets in session when no less than two-thirds of the justices are in attendance.

(2) The resolutions and rulings of the court are passed by simple majority of all justices.

(3) No justice may abstain from voting.

**Article 16.** The Constitutional Court acts on the initiative of the authorities and individuals named in Article 150, paragraph 1, of the Constitution.

**Article 17.** (1) Petitions to the Constitutional Court must be submitted in writing and motivated with written proof.

(2) Requests for the declaration of unconstitutionality of laws and legal acts as per Article 12, paragraph 1, point 2, may be submitted as of the day of their promulgation.

(3) In resolving arguments on jurisdiction as per Article 149, paragraph 1, point 3 of the Constitution, requests may be filed only after the topic of the arguments has been discussed among the institutions involved.

(4) Requests on the resolution of arguments concerning the legality of the election of a president, vice president or national representative must be submitted with 15 days following the resolution of the Central Electoral Commission.

**Article 18.** (1) The court chairman orders the opening of a case and assigns a justice-reporter and the date of discussion of the case.

(2) Interested institutions are informed of the acceptance of the case and a time limit is set for the presentation of the written viewpoints and proofs.

**Article 19.** (1) The Constitutional Court must rule on the admissibility of requests filed as per Article 17 in closed session.

(2) Should a request be declined, it must be returned to the requester with a motivated ruling.

**Article 20.** (1) The Constitutional Court may require additional written proofs and assign the drafting of expert conclusions.

(2) No one has the right to refuse to submit the requested information or written proof even if they involve state or official secrets.

**Article 21.** (1) The sessions of the Constitutional Court are held without the participation of the interested parties, with the exception of specifically indicated cases in the law, as well as if the court rules otherwise.

(2) The court may order the personal appearance and the testimony of experts.

(3) Minutes are kept on the court sessions, signed by the chairman and the recording secretary.

(4) Should it be determined that the assembled proof is adequate, the court must issue a ruling with a resolution within two months.

(5) If the Constitutional Court has issued a resolution or a ruling on the inadmissibility of a submitted request, no new request may be submitted on the same topic.

**Article 22.** (1) The court may issue a resolution exclusively on a filed request. This restriction does not apply to inconsistencies with the Constitution.

(2) Legal acts which have been declared unconstitutional may not be applied.

(3) In the case of acts formulated by an authority without jurisdiction, the Constitutional Court declares their invalidity.

(4) Any legal consequences which stems from the acts as per paragraph 2 must be borne by the authority which has resolved them.

(5) The resolution on the illegality of the election of a president, vice president, or national representative and the nonelectability and incompatibility of a national representative are submitted to the National Assembly, the Central Electoral Commission, and other interested authorities and individuals.

**Article 23.** (1) The resolution on the formulation of National Assembly charges against the president or the vice president must be addressed to the Constitutional Court along with the motivations, written proofs and minutes of plenary sessions in accordance with the stipulations of Article 103, paragraph 2, of the Constitution.

(2) The chairman of the court opens the case and assigns two reporting justices, sets the date for adjudication and informs the defendant.

(3) Transcripts of the resolution, the written proofs and the minutes are issued to the defendant, who may submit or request other proof within 15 days.

(4) All types of proof are admissible in the consideration of a case. The defendant has the right to counsel.

(5) The court informs the chairman of the National Assembly of the date of the session. A national representative, appointed by the National Assembly, is present at the trial of the case, in support of the charge.

**Article 24.** (1) The Constitutional Court reviews the case in the presence of no less than three-quarters of all members.

(2) The defendant has the right to submit his personal explanations to the court.

(3) The court issues its resolution by secret vote.

(4) With its resolution the court terminates or refuses to terminate the mandate of the president or the vice president.

(5) The decision is reported immediately to the defendant, the chairman of the National Assembly, the president or the vice president, and to the chairman of the Council of Ministers.

(6) Should the court terminate the mandate of the president or the vice president for reasons of state treason, the case is sent to the prosecutor general.

**Article 25.** (1) The decision of lifting the immunity of a Constitutional Court judge must be passed by secret vote.

(2) The justice is given the opportunity to provide personal explanations to the court. He does not participate in the vote.

**Article 26.** In cases of established incompatibility of a national representative, he is given the right stipulated in Article 25, paragraph 2.

**Article 27.** In the case of nonexecution of a ruling or resolution of the Constitutional Court, the chairman imposes upon the culprit a fine not to exceed 5,000 leva. The fine may not be appealed but may be reduced or waived by the court chairman.

**Provisional and Concluding Stipulations**

**1.** The Constitutional Court adopts a set of rules on the organization of its activities.

**2.** (1) The membership of the Constitutional Court for its first mandate is renovated by drawing lots.

(2) After the three-year term has elapsed, the composition of the court is renewed with two members from the quota of the National Assembly and one each from the quota of the president and the judiciary.

(3) After the expiration of the six-year term, the membership is renovated with two representatives from the quota of the president and one representative each of the quota of the National Assembly and the judiciary.

The present law was passed by the Grand National Assembly on 30 July 1991 and was stamped with the state seal.

For the chairman of the Grand National Assembly: Gin'o Ganev.

## Amendment to Law on Electing National Representatives, Township Council Members, Mayors

*91P20496A Sofia DURZHAVEN VESTNIK in Bulgarian 13 Sep 91 p 1*

["Text" of Amendment to Law on Electing National Representatives, Township Council Members, and Mayors adopted by the Grand National Assembly on 12 September and signed by Gin'o Ginev for the chairman of the Grand National Assembly; text of the law can be found in the East Europe supplement on recent legislation, JPRS-EER-91-141-S of 23 September]

[Text]

**Ukase No. 276**
**of the President of the Republic Zhelyu Zhelev**
**issued in Sofia on 13 September 1991**
**and sealed with the state seal**

On the basis of Article 98, Item 4, of the Constitution of the Republic of Bulgaria, I hereby decree that the Law to Amend the Law on Electing National Representatives, Township Council Members, and Mayors, published in DURZHAVEN VESTNIK issues 69 and 70 of 1991, adopted by the Grand National Assembly on 12 September 1991, be published in DURZHAVEN VESTNIK.

Law to Amend the Law on Electing National Representatives, Township Council Members, and Mayors

Section 1. The following changes are made in Article 52:

1. Item 2 of paragraph 1 is amended as follows: "2. Independent candidates must submit 500 signatures of voters in their respective electoral district, but for settlements with populations under 1500, signatures of one-third of the voters will suffice;"

2. Paragraph 2 is amended as follows: "(2) The registration must take place no later than 30 days before the election day, but 25 days for independent candidates for mayor."

Section 2. Paragraph 3 of Article 71 is changed as follows: "(3) The colors of the ballots may be white, orange, blue, green, or red. If more colors are needed, white ballots with one to three color stripes may be used. No combinations of the colors of the national flag are allowed."

Section 3. This law takes effect from the date of its publication in DURZHAVEN VESTNIK.

## Resolution on Access to Mass Media During Elections

*91BA1087A Sofia DURZHAVEN VESTNIK in Bulgarian No 71, 30 Aug 91 pp 1-2*

["Text" of Resolution on Access to National Media During the Electoral Campaign, adopted by the Grand National Assembly on 21 August and signed by Chairman of the Grand National Assembly Nikolay Todorov]

[Text] In accordance with Article 86, Paragraph 1, of the Constitution of the Bulgarian Republic, and in connection with Article 57 of the Law on the Election of National Representatives, Township Council Members, and Mayors, the Grand National Assembly has passed the following:

**Resolution:**

During the electoral campaign, the national mass media and Bulgarian Television and Bulgarian Radio will carry out their activities in accordance with the Fundamental

Regulations of the Provisional Status of Bulgarian Radio and Bulgarian Television, as approved by the Grand National Assembly. The Bulgarian Telegraph Agency will reflect objectively the electoral campaign of the parties, coalitions, and independent candidates, and will present their platforms and appeals.

The news broadcasts, and the daily and weekly political surveys broadcast on Bulgarian Radio and Bulgarian Television will reflect objectively and in a balanced way, with authentic news and reports, the electoral campaign of the parties, coalitions, and independent candidates.

During the electoral campaign, Bulgarian Television and Bulgarian Radio will set aside time for debates on specific topics, to be held twice weekly. The parties and coalitions represented in parliament will participate in the debates (90 minutes on television and 120 minutes for the two programs on the radio).

The radio and television will offer the parliamentary parties and coalitions the opportunity to hold an initial and a concluding debate lasting 90 minutes each.

The time for debates will be provided on two separate occasions for the entire electoral period also to the nonparliamentary parties and coalitions, which have registered tickets in at least one-third of all electoral districts.

During the first and last days of the electoral campaign, Bulgarian Radio and Bulgarian Television will broadcast, under identical program conditions and a length not to exceed five minutes, the electoral appeals of all parties and coalitions which have registered their tickets in one-third of all electoral districts.

Channel One on Bulgarian Television and the Horizon Program on Bulgarian Radio, which are broadcast during the same time segments, will provide twice weekly clips or reports produced by Bulgarian Television and Bulgarian Radio teams, commissioned and supervised by the parties and coalitions which have registered their tickets in no less than one-third of all electoral districts.

The clips and reports may not last more than three minutes and must cover the various aspects of the platform of the given party.

Attacks mounted against political opponents are inadmissible.

The rights to reply are governed by the stipulations of Article 58 of the Law on the Election of National Representatives, Township Council Members, and Mayors.

The regional radio and television centers and the local radio relay centers shall be used by the parties, coalitions, and independent candidates who have registered tickets in the respective electoral district, in accordance with the procedure governing the national mass media.

In the course of the electoral campaign, foreign radio and television transmissions in Bulgarian, on the national wave lengths, will not permitted.

Appeals to violations of this resolution must be filed with the Central Electoral Commission and with the district and township electoral commissions which must issue their ruling on the matter within three days.

In accordance with the stipulations of Article 57 of the Law on the Election of National Representatives, Township Council Members, and Mayors, the Central Electoral Commission will pass resolutions mandatory for the national information media.

The Central Electoral Commission shall set up a group of experts, consisting of representatives of the parliamentary parties and coalitions, which will monitor the implementation of this resolution and the stipulations of the Law on the Election of National Representatives, Township Council Members, and Mayors.

The expenditures incurred by the Bulgarian Radio, Bulgarian Television, and Bulgarian Telegraph Agency related to reporting the electoral campaign shall be assumed by the state budget.

The electoral campaign, in the sense of this resolution, shall begin after the expiration of the deadline for the registration of the candidates as per Article 52, Paragraph 2, of the Law on the Election of National Representatives, Township Council Members, and Mayors, and shall end 24 hours before election day, as per Article 60, Paragraph 2, of the same law.

## Law on Conversion of State Enterprises

*91BA0997A Sofia DURZHAVEN VESTNIK in Bulgarian 12 Jul 91 No 55 pp 1-2*

["Text" of Law on Private Trade Associations With State Property]

[Text]

### Grand National Assembly Ukase No. 215

In accordance with Article 84, Paragraph 1, and Article 92, Item 8, of the Constitution of the Republic of Bulgaria, I hereby decree:

The publication in DURZHAVEN VESTNIK of the Law on Forming Personal Trade Associations With State Property, adopted by the Grand National Assembly on 27 June 1991.

Issued in Sofia on 8 July 1991 and stamped with the state seal.

—President of the Republic: Zhelyu Zhelev

**Law on the Forming of Private Commercial Companies With State Property**

Article 1.1. The forming and reorganization of state enterprises as private companies with limited liability or as private shareholding companies will be based on a legal act issued by the Council of Ministers.

1.2. The rights of a private owner of capital, as per Articles 147 and 159, Paragraph 2, of the Trade Law will be exercised by the Council of Ministers.

1.3. The management of private trade companies with state property will be assigned with a management contract in accordance with the procedure stipulated by the Council of Ministers.

Article 2. The stock and shares of private trade companies based on state and municipal property are not transferable.

**Additional Stipulations:**

1. The Council of Ministers has the right:

1. To prohibit the export of certain goods or services or to set export quotas and fees for a period of one year.

2. To forbid the import and to set import fees for goods and services coming from countries which apply similar measures toward Bulgarian goods and services, as well as in accordance with international treaties to which the Bulgarian State is a party.

3. To set conditions for investments abroad, including participation in companies, purchasing of securities and real estate, as well as the transfer and keeping funds and other property abroad.

2.1. The conditions and restrictions relative to exports and imports as per the preceding paragraph, and the authorities in charge of its application and control over its observance, are published in DURZHAVEN VESTNIK. Enterprises may not be granted administrative authority in connection with foreign economic activities.

2.2. The authority in charge of the application of and control over the observance of the conditions and restrictions as per the preceding paragraph must supply to all interested parties updated information on the established quotas and set for them equal competitive conditions for engaging in imports, exports, or investments abroad.

2.3. The authority as per the preceding paragraph must publish in DURZHAVEN VESTNIK the conditions and procedure for participation in quotas. It must rule on submitted requests within three days. If the corresponding document is issued on the basis of competition, the time begins to run with the closing of the contest. Refusal to issue the requested document must be motivated. The document or the refusal to issue it, allowing or preventing the possibility of engaging in a foreign economic deal, may be appealed in accordance with the Law on Administrative Procedures.

**Provisional and Concluding Stipulations**

3. The documents issued for the reorganization of state companies will remain in effect. They must be consistent with the requirements of the Trade Law and the registration must take place in accordance with its stipulations.

4. Pending procedures for the sale of capital assets, real estate, and property owned by state and municipal firms will be concluded in accordance with the present procedure.

5. The firms of public organizations and branches of foreigners, set up in accordance with Ukase No. 56 on Economic Activities, shall be considered private companies with limited liability as per the Trade Law.

6. The present law will be applied until the adoption of a law as per Article 62, Paragraph 1, of the Trade Law and, respectively, the Law on Privatization, and will become effective as of 1 July 1991.

This law was adopted by the Grand National Assembly on 27 June 1991 and stamped with the state seal.

—Chairman of the Grand National Assembly: Nikolay Todorov

## Resolution on Cabinet's Operating Procedures

*91CH0933X Budapest MAGYAR KOZLONY in Hungarian No 65, 15 Jun 91 pp 1,239-1,244*

[Resolution No. 1025/1991 of 15 June concerning the cabinet's operating procedures]

[Text]

### I. Functioning of the Cabinet

1. The cabinet shall exercise its authority and perform its functions as a body, under the leadership of the prime minister.

2. The cabinet shall hold regular meetings, generally on a weekly basis.

3. The cabinet shall establish its work program for six-month periods broken down per cabinet meeting, in the form of resolutions.

4. The Office of the Prime Minister shall prepare the draft work program based on the agreed upon government program and in due regard to recommendations made by ministers and heads of organizations having a national scope that are overseen directly by the cabinet (hereinafter: heads of national organizations). The cabinet shall render a decision in regard to the work program—as submitted by the administrative state secretary of the Office of the Prime Minister—no later than at its last meeting prior to the time period covered by the work program.

5. A delay not exceeding two cabinet meetings in the submission of proposals or reports to be incorporated in the work program shall be agreed to by the administrative state secretary of the Office of the Prime Minister. The prime minister's concurrence shall be required for the authorization of longer delays or for the deletion of a task from the work program.

6. Proposals or reports not included in the work plan may be submitted at any time, consistent with requirements established in this resolution.

### II. Preparations for Cabinet Decisions

#### Content Requirements for Proposals

7. The purpose of submitting proposals to the cabinet is to initiate decisionmaking.

8. Development of proposals involving legislative proposals and National Assembly resolutions shall be scheduled in a manner to enable submission at a point in time specified in the Legislative Law and in the House Rules of the National Assembly.

9. Proposals shall contain brief information needed to render well-founded decisions while omitting technical details; information preferably expressed in numerical terms concerning the expected consequences of the proposal (recommended legislation); a report on the budgetary impact of the proposal; a summary of chief findings related to the subject of the proposal and a summary of the proposal; and the proposed decision in concise terms.

10. Disputed issues in regard to which no agreement has been reached, including divergent views, shall be presented in a manner suitable for decisionmaking. Two or more alternative proposals providing identical levels of detail shall be reported if the need to take a well-founded position so requires.

11. If the proposal recommends exceptional or urgent legislative action in regard to a legislative proposal or National Assembly resolution, the reasons for such request shall be stated in the proposal.

12. Proposals other than those which initiate legislation shall contain concise texts of resolutions which rule out the possibility of multiple interpretation and which are controllable in the course of implementation. If necessary, such proposed resolutions shall also specify the method of control and those responsible for exercising control.

13. Proposals shall contain recommendations regarding the method of publicizing the proposal as well as with respect to the repeal of earlier decisions.

14. Lengthy proposals shall be accompanied by concise summaries which describe the essence of each case and of the proposed decision in a manner enabling the reader to become familiar with the proposal.

15. In the event that a ministerial decree must be published jointly by two or more ministries, or in concurrence with another minister, the cabinet shall render decisions concerning disputed issues arising from divergent views held by different ministries.

#### Comments on Proposals

16. Draft proposals shall be submitted to members of the cabinet for review and comment.

17. An obligation to reconcile draft proposals with heads of national organizations shall exist only if a given proposal impacts upon the concerns of a given national organizations.

18. Draft proposals affecting the authority and jurisdiction of courts shall be reconciled with the president of the Supreme Court.

19. Draft proposals affecting the functions of local autonomous governmental bodies shall be submitted for review and comment to interest groups of a national scope which represent autonomous governmental bodies.

20. Provisions of the Legislative Law (Law No. 9 of 1987) shall be observed when framing proposed legislation. Such proposals shall be reconciled with the supreme prosecutor, and with social organizations and interest groups of a national scope interested in the subject of the proposed legislation.

21. All draft proposals shall be submitted to the administrative state secretary of the Office of the Prime Minister.

22. Any person with whom an obligation to reconcile a draft proposal exists, shall be permitted to comment on the draft proposal.

23. The authority to comment shall be exercised by:

(a) The ministers, the state secretaries or deputy state secretaries authorized for this purpose; and by

(b) The heads of national organizations, or in case of impediment by their deputies authorized for this purpose.

24. With respect to reports to be presented to the National Assembly concerning the activities of cabinet members and of heads of national organizations, the person submitting the report shall request comments from the affected cabinet member (or head of national organization).

25. Comments shall be submitted to the person making the proposal within 15 days from date of receipt of proposal. If the significance of the proposal or some other consideration so warrants, a comment period longer than 15 days shall be authorized. The review and comment period regarding proposals for comprehensive legislation and with respect to the formulation of positions by a body shall generally be 30 days.

26. Shorter deadlines may be established in specific instances determined by the cabinet, or if definitely warranted by the importance of the cause (priority situations). In such cases proposals shall be submitted for review and comment by the minister, state secretary, or head of a national organization.

27. Persons submitting draft proposals shall reconcile divergent views expressed by persons commenting. The facts of reconciliation and of disagreement, and the fact that a person commenting continues to maintain his view, and further, the fact that a person requested to comment has not expressed an opinion by the deadline specified shall be noted when submitting the proposal, including the names of such persons.

### Submitting a Proposal

28. In addition to the members of the cabinet, proposals may also be submitted to the cabinet by the administrative state secretary of the Office of the Prime Minister, the heads of national organizations, and by other organizations and persons, provided that such organizations and persons are authorized in advance by the prime minister to do so.

29. Proposals shall be submitted in 75 copies—plus an additional copy with the original signature of the person offering the proposal—to the Office of the Prime Minister at least nine days prior to the date of the cabinet meeting.

30. Unscheduled proposals or proposals which require urgent decisions and which cannot be postponed may be submitted after the deadline specified in Point 29 above.

31. The Office of the Prime Minister shall determine whether a proposal submitted conforms with the requirements established in this resolution. The Office of the Prime Minister shall inform the prime minister and the person who submitted the proposal if a proposal fails to conform with the requirements, and shall make recommendations concerning ways to achieve conformity.

### Proposals Related to International Agreements

32. In addition to the appropriate application of requirements established in this resolution, separate provisions govern the content, review and comment, and submission requirements for proposals related to international agreements.

### The Report

33. The purpose of submitting reports to the cabinet is to inform the cabinet regarding matters not requiring decisionmaking.

34. Members of the cabinet, heads of national organizations and other persons proceeding on the basis authority to represent the cabinet shall submit reports to the cabinet concerning their official negotiations abroad, proceedings abroad on behalf of the cabinet, and official negotiations with foreigners in Hungary. Such reports shall be submitted within one week of the conclusion of such negotiations or proceedings.

35. The president of the Central Statistics Office shall provide regular reports to the cabinet concerning significant social and economic changes that may be foreseen from statistical data.

36. Reports from organizations established by the cabinet may be submitted to the cabinet within a period shorter than that specified in point 29. above.

37. Requirements established for proposals shall be appropriately applied to reports, except that no reconciliation shall be required in regard to reports concerning the implementation of tasks.

### Conference of Administrative State Secretaries

38. Proposals and reports to be dealt with in the course of cabinet meetings shall be discussed in advance at a

conference of administrative state secretaries (hereinafter: state secretaries' conference).

39. The functions of the state secretaries' conference shall be preparation for cabinet meetings, the clarification of divergent views that remained unresolved in the course of state administrative reconciliation, and the taking of positions regarding disputed administrative and technical issues.

40. The state secretaries' conference shall generally be held two days in advance of cabinet meetings. Under extraordinary circumstances a state secretaries' conference may also be convened at other times.

41. The administrative state secretary of the Office of the Prime Minister shall convene, organize and chair the state secretaries' conference.

42. The administrative state secretary of the Office of the Prime Minister shall determine the agenda of the state secretaries' conference.

43. Only proposals and reports which conform with the requirements established by this resolution shall be included in the agenda.

44. The administrative state secretaries of the various ministries, the general deputy state secretary of the Office of the Prime Minister, and the heads of the secretariats of ministers without portfolio shall participate in the state secretaries' conference. The administrative state secretary of the Office of the Prime Minister may also invite other persons to the state secretaries' conference.

45. If warranted, the administrative state secretary [of a given ministry] may be substituted by the general deputy state secretary, and in exceptional cases by a deputy state secretary designated by a minister or by an administrative state secretary.

46. The state secretaries' conference shall deal with proposals and reports incorporated in the agenda, and shall produce positions and recommendations to the cabinet concerning these proposals and reports.

47. The state secretaries' conference may initiate proceedings in which a body established by the cabinet for the performance of specific functions discusses a given proposal prior to a cabinet meeting.

48. The state secretaries' conference may call upon persons submitting proposals to submit for the cabinet meeting a supplementary proposal reconciled to the maximum possible extent, and which is consistent with the position taken by the state secretaries' conference.

49. If the proposal needs to be reworked, the state secretaries' conference may require the submission of a new proposal that is consistent with the requirements established by this resolution.

50. A memorandum shall be prepared concerning the state secretaries' conference. The memorandum shall be written by the administrative state secretary of the Office of the Prime Minister.

### III. Cabinet Meetings

51. A proposal or a report may be included in the agenda of a meeting if the state secretaries' conference discussed the matter and recommended that it be placed on the agenda. The prime minister may make exceptions from under this rule.

52. The administrative state secretary of the Office of the Prime Minister shall prepare a recommended agenda for each cabinet meeting and shall forward such agenda, as approved by the prime minister, to the meeting participants. The cabinet shall determine the final agenda. Subject to the prime minister's permission, documents pertaining to urgent matters which cannot be postponed may be distributed on the spot, prior to the opening of the cabinet meeting.

53. Members of the cabinet, permanent invited guests having the authority to counsel, persons submitting proposals and persons invited by the prime minister shall attend cabinet meetings.

54. Permanent invited guests to cabinet meetings shall be as follows:

(a) The administrative state secretary of the Office of the Prime Minister,

(b) The general deputy state secretary of the Office of the Prime Minister, and

(c) The cabinet spokesman.

55. In the event that the prime minister is impeded in the performance of his duties, a minister designated by the prime minister shall chair the cabinet meeting, and shall exercise all authorities delegated to the prime minister by this resolution.

56. Members of the cabinet shall be obligated to take part in cabinet meetings. Only the prime minister may waive this obligation.

57. Substitutions for ministers at the cabinet meeting shall take place pursuant to rules established by the prime minister; in such cases political state secretaries present shall have the authority to confer. If the political state secretary is also impeded in attending the meeting, the administrative state secretary, as authorized by his minister, shall participate in the cabinet meeting.

58. Relative to proposals submitted by heads of national organizations or by other persons, the designated deputies of such heads of national organizations or other persons shall take part only in the discussion of the applicable agenda item, if the head of the national organ or other person submitting a proposal is impeded in attending a cabinet meeting.

59. More than half the number of cabinet members present shall constitute a quorum.

60. In rendering cabinet decisions, the votes of various members of the cabinet shall be of equal weight. Decisions shall be rendered by way of majority vote and the prime minister shall cast the decisive vote in case of equal division.

61. The prime minister shall announce the decisions of the cabinet.

62. Cabinet meetings shall consist of discussions of rendering decisions, verbal consultations and announcements concerning proposals and reports submitted.

63. Discussion of written proposals shall take place pursuant to an appropriately prepared and approved agenda. The cabinet shall not render decisions in the framework of verbal consultations, which represent the final settlement of a given issue.

64. In extraordinary situations or regarding matters requiring immediate action the cabinet may render decisions outside the framework of cabinet meetings. In such cases cabinet members shall communicate their positions in writing or by telephone. The administrative state secretary of the Office of the Prime Minister shall document the communication of such positions.

### IV. Cabinet Decisions

65. Within the scope of its authority the cabinet shall promulgate decrees and resolutions, and shall adopt guidelines and statements of principle.

66. In cooperation with persons submitting proposals, the Office of the Prime Minister shall finalize the text of cabinet decisions based on the Record of cabinet meetings, to be signed by the prime minister (or by the minister who chaired the cabinet meeting if the prime minister is impeded).

67. If the cabinet makes substantive changes in a recommended proposal, the administrative state secretary of the Office of the Prime Minister shall present the changed text to the person who submitted the proposal and to persons interested in the changes, before the changed text is signed.

68. The cabinet shall submit proposals to the National Assembly by forwarding such proposals to the president of the National Assembly.

69. Based on the unanimous recommendation of the state secretaries' conference, the cabinet may accept a draft proposal without debate, if

(a) Persons entitled to comment agree with the cabinet proposal prepared in a manner consistent with requirements, and if

(b) The proposal pertains to the adoption of an international agreement previously approved by the cabinet.

70. In between cabinet meetings the prime minister may promulgate cabinet resolutions for the assignment of tasks, the conduct of international negotiations and the signing and approval of agreements, for the organizing of visits, in regard to certain appointments and dismissals and regarding the grant of decorations, and further, in other cases based on express, specific authority granted by the cabinet. The administrative state secretary of the Office of the Prime Minister shall submit reports to the cabinet concerning resolutions promulgated in this manner, for subsequent approval by the cabinet.

71. The decrees, resolutions, statements of principle, and guidelines adopted by the cabinet shall be proclaimed (published) within eight days from the date of the cabinet meeting, and shall be forwarded to interested parties. The prime minister may establishes a different deadline for proclamation.

72. The Office of the Prime Minister shall forward copies of resolutions and guidelines whose publishing in MAGYAR KOZLONY has not been ordered to members of the cabinet and to interested persons, and shall make public such resolutions and guidelines in the Register of Resolutions.

73. The administrative state secretary of the Office of the Prime Minister shall issue memorandums concerning cabinet decisions which need not be framed as resolutions, and shall forward such memorandums to interested persons.

74. Decisions not requiring action shall be recorded only in the Record or in the Summary of proceedings.

75. The Office of the Prime Minister shall maintain a record of cabinet decisions.

76. The cabinet spokesman shall issue an official news release concerning cabinet sessions and shall inform representatives of the press.

### V. Records and Summaries of Cabinet Meetings

77. Records and Summaries of cabinet meetings shall be prepared. The administrative state secretary of the Office of the Prime Minister shall provide for the related tasks.

78. The Record shall be an authentic document containing a verbatim transcript of statements made at cabinet meetings.

79. The Record shall be signed by the prime minister and by the administrative state secretary of the Office of the Prime Minister.

80. A single copy bearing the original signature of the following documents shall be preserved as attachments to the signed Record:

(a) Proposals,

(b) The Summaries of meeting,

(c) Decrees and resolutions,

(d) Proposals submitted to the National Assembly and related cover letters,

(e) Guidelines and statements of principle,

(f) Memorandums,

(g) Documents generated pursuant to proceedings described in Point 64 above,

(h) Resolutions issued between two cabinet meetings, and

(i) Reports forwarded to members of the cabinet.

81. Documents pertaining to proposals discussed shall be attached to the Record if the administrative state secretary of the Office of the Prime Minister so orders.

82. The Record and its attachments shall be preserved by the Office of the Prime Minister; these documents shall not be disposed of and the management of these files shall be governed by provisions pertaining to the protection of archival materials and to archives, as well as to state secrets and official secrets.

83. The Record shall be available for perusal by members of the cabinet and by permanent invited guests from the administrative state secretary of the Office of the Prime Minister; other participants at the cabinet meeting may review segments of the Record which contain their remarks. Persons authorized by members of the cabinet (permanent invited guests) may review the Record upon permission received from the administrative state secretary of the Office of the Prime Minister. An extract of the Record may be provided if such extract is required for work in progress.

84. If in the view of a cabinet member or other participant at the cabinet meeting the contents of the Record differ from what has actually transpired, such member or participant may request the prime minister to correct the Record.

85. The Summary of cabinet meetings shall contain the list of participants, the title of proposals, the names of persons who commented, and if voting took place, the fact that a vote took place, the numerical division of votes and the decision.

86. The Summary shall be signed by the prime minister and by the administrative state secretary of the Office of the Prime Minister.

### VI. Controlling the Implementation of Cabinet Decisions

87. The Office of the Prime Minister shall prepare a monthly report to the prime minister concerning the implementation of time critical tasks prescribed by cabinet resolutions.

88. The prime minister may call upon ministers and heads of national organizations to report on the implementation of tasks ordered to be performed by the cabinet.

### VII. Performing Certain Cabinet Functions

89. The cabinet may establish [specialized] cabinets, government committees, colleges and advisory bodies, and may appoint government commissioners for the performance of specific tasks.

90. [Specialized] cabinets shall be consultative organizations of the cabinet which perform functions preparatory to decisionmaking, take preliminary positions regarding all issues within their scope of authority requiring cabinet decisions and which have a substantial impact on the realization of the cabinet's political, economic and other important purposes. [Specialized] cabinets shall establish their own rules of order and shall submit reports to the cabinet on a regular basis concerning their activities.

91. Government committees shall be organizations of the cabinet which perform functions preparatory to decision making as well as coordinating and controlling functions, and which render decisions regarding specific issues. The organization and functions, as well as the order of decisionmaking shall be governed by resolutions establishing such committees and by the provisions of the committee's regulations. The chairmen of government committees shall report to the the cabinet concerning decisions reached by their respective committees, and shall submit proposed decisions concerning arising issues.

92. Within their functional scopes, government commissioners shall act on behalf of the cabinet and shall submit periodic reports to the cabinet concerning their activities and actions taken.

93. Colleges and advisory bodies shall be organizations which support the workings of the cabinet for the purpose of preparing for decisionmaking. Reports shall be prepared about their workings on a case by case basis for use by the cabinet.

94. The performance of cabinet functions related to political activities and to the streamlining of the cabinet's relations with parliament shall be assisted by a conference of political state secretaries. The political state secretaries' conference shall establish its own rules of order.

### VIII. Closing Provisions

95. This resolution shall take effect on the day of its promulgation. At the same time, resolution 1006/1990 (7 July), which provides interim rules for the functioning of the cabinet, and resolution 1038/1990 (12 October), which amended the interim rules, shall become obsolete.

—[Signed] Dr. Jozsef Antall, prime minister

## Resolution on National Electoral Commission

*92EP0016B Warsaw MONITOR POLSKI in Polish No 23, 22 Jul 91 Item No 159 pp 193-195*

[Resolution dated 11 July on issuing regulations for the National Electoral Commission]

[Text] Pursuant to Article 50, Paragraph 3, of the law of 28 June 1991 governing the elections to the Sejm of the Republic of Poland (DZIENNIK USTAW [Dz.U.], No. 59, Item 252) and Article 5 of the law of 10 May 1991 governing the elections to the Senate of the Republic of Poland (Dz.U., No. 58, Item 246), the National Electoral Commission resolves as follows:

Paragraph 1. The text of the regulations of the National Electoral Commission is herewith issued as worded in the appendix to this resolution.

Paragraph 2. The present law takes effect on the day of its passage.

—Chairman of the National Electoral Commission: A. Zoll.

**Appendix to the Resolution of 11 July 1991 of the National Electoral Commission (Item 159):**

### Regulations of the National Electoral Commission

#### Chapter 1. General Provisions

Paragraph 1. These regulations define in detail the guidelines for the organization of work of the National Electoral Commission, hereinafter referred to as "the commission," and the manner whereby it implements its legal duties.

Paragraph 2.1. The commission considers and rules collectively on matters within its scope of competences.

2.2. The commission votes on normative legal acts within its legally defined powers.

Paragraph 3.1. The commission operates on the basis of periodic plans of work and detailed plans concerning specific tasks, including those relating to the determination of election results.

3.2. Drafts of the plans referred to in Subparagraph 1 are prepared by the commission secretary and presented to the commission.

#### Chapter 2. Organization of Work of the Commission

Paragraph 4.1. The work of the commission is directed by its chairman, who in particular:

1) Represents the commission outside.

2) Convenes sessions of the commission and chairs them.

3) Signs on behalf of the commission resolutions, directives, and clarifications as well certificates of the election of deputies and senators and the correspondence of the commission, with the reservation of the matters mentioned in Paragraph 13.

4) Supervises the implementation of the commission's resolutions and directives.

5) Instructs the National Electoral Office to perform specified assignments and supervises their implementation.

6) Exercises the duties recommended by the commission.

4.2. In the absence of the commission chairman his duties are performed by the deputy chairman.

Paragraph 5. The commission may assign for execution specific duties ensuing from its purposes to the deputy chairmen, commission members, and the commission secretary, or to the taskforces appointed for this purpose.

Paragraph 6. The duties of the commission secretary include in particular:

1) Presentation, at sessions of the commission, of draft resolutions, directives, and clarifications of the commission, as well as of the materials prepared by the National Electoral Office.

2) Submission to the commission of appeals against the rulings of district and voivodship electoral commissions, as well as of complaints about their activities, for the commission to rule on them.

3) Directing the Inspectorate of the State Electoral Commission.

4) Reaching preliminary agreements with agencies of the government administration concerning the issuance—within the scope of their competences—of the needed legal acts regulating electoral matters.

5) Contacting voivodes, gmina boards, and directors of voivodship electoral offices on organizational matters concerning elections.

6) Organizing, as instructed by the commission, conferences, and training of secretaries of district and voivodship electoral commissions and directors of voivodship electoral offices.

#### Chapter 3. Sessions of the Commission

Paragraph 7. The commission holds sessions as scheduled in its plan of work; notices announcing a session together with its agenda and related materials are provided by the commission secretary within a period of time sufficient for preparations to attend the deliberations, unless an emergency session is convened.

Paragraph 8.1. Members of the commission are obligated to take an active part in the sessions and other work of the commission.

8.2. In the event that a commission member finds it impossible to attend a session, he or she should, insofar as possible, notify accordingly the commission chairman or secretary even before the session.

8.3. Sessions of the commissions are regularly attended by the commission secretary and by the representatives of the National Electoral Office that he designates.

Paragraph 9.1. Persons whose presence is needed in connection with the agenda are invited to attend sessions of the commission.

9.2. Other persons invited by the commission chairman may attend sessions of the commission.

9.3. On the recommendation of a commission member a session or a part thereof is held in the sole presence of commission members.

Paragraph 10.1. The commission deliberates and adopts decisions in the presence of a quorum of at least five members, including the commission chairman or one of his deputies.

10.2. Resolutions and rulings of the commission are adopted openly by a majority of votes. In the event of a tie, the chair casts the deciding vote.

Paragraph 11. Elections of the commission chairman and separately of his deputies are by open voting, unless the commission resolves otherwise. In the event of a tie, the elections are repeated following a discussion.

Paragraph 12.1. Minutes of the session of the commission are kept; they should include:

1) A description of the agenda.

2) Names and surnames of the participants.

3) Summaries of speeches from the floor.

4) Text of the rulings adopted.

12.2. The text of the adopted resolutions is appended to the minutes.

12.3. The resolutions, directives, and clarifications of the commission are signed by the session's chair.

12.4. The minutes of the session are signed by its chair and the commission secretary.

12.5. The commission secretary drafts, as the need arises, a press release on the session and presents it for approval to the session chair.

Paragraph 13. The rulings referred to in Article 66, Paragraph 2; Article 71, Paragraph 4; and Article 77, Paragraphs 1 and 2, in connection with Article 74, Paragraphs 2 and 3, of the Law Governing the Elections to the Sejm of the Republic of Poland, as well as the commission's records concerning the registration of national lists of candidates, the election of deputies from the national lists of candidates for deputies, the determination of the final results of elections to the Sejm, and the announcement of the results of elections to the Sejm and the Senate, as well as the reports on elections to the Sejm and the Senate, are signed by all the commission members present at the session.

Paragraph 14. The resolutions of the commission, the records and reports referred to in Paragraph 13, certificates of the election of deputies and senators, and, depending on the decision of the commission chairman, other documents issued by the commission bear the seal of the National Electoral Commission.

**Chapter 4. Supervising the Implementation of Electoral Laws**

Paragraph 15.1. The commission exercises the implementation of electoral laws by issuing directives and clarifications and monitoring the activities of the lower-level electoral commissions and the agencies of national and local government administrations exercising duties relating to the conduct of elections, and it considers complaints about the activities of the district and voivodship electoral commissions.

15.2. The commission may require the lower-level electoral commissions to submit periodic reports on the implementation of their duties.

15.3. The commission moreover examines protests, complaints, and other signals relating to the enforcement of electoral laws and presents the ensuing conclusions to the appropriate state agencies.

Paragraph 16.1. With the object of implementing the duties referred to in Paragraph 15, Subparagraph 1, the commission may instruct employees of the National Electoral Office to perform inspection, and, on the recommendation of the commission secretary, it may avail itself of the assistance of the employees of national agencies placed at its disposal for the election period, by establishing the Inspectorate of the National Electoral Commission, hereinafter referred to as "the inspectorate."

16.2. Immediately after ordering elections, the commission decides on establishing the inspectorate.

Paragraph 17.1. Persons performing inspections act within the scope of the powers delegated to them by the commission and identify themselves by showing an authorization signed by the commission chairman and provided with the seal of the commission.

17.2. Persons belonging in the inspectorate are authorized to inspect the records of district, voivodship, and precinct electoral commissions and voivodship electoral offices, as well as the election-related records kept by offices of national and local government administrations and their subordinate units. Such persons also are authorized to attend the meetings of the district, voivodship, and precinct electoral commissions, with the exception of the meetings relating to counting the ballots cast. Such

persons also are authorized to keep these commissions apprised of new developments.

17.3. Reports on the inspections are immediately presented to the commission.

**Chapter 5. Special and Final Provisions**

Paragraph 18.1. During the period between elections the commission exercises its duties in accordance with a separately determined plan of work, with the proviso that sessions of the commission are held as needed but not less often than once every two months.

18.2. The provisions of these regulations apply correspondingly.

Paragraph 19.1. If the need arises to change the membership of the commission, the president of the Republic of Poland is immediately notified.

19.2. If the changes referred to in Subparagraph 1 concern individuals exercising the duties of the chairman or a deputy chairman of the commission, after its membership is complemented the commission immediately proceeds with the elections of the new chairman or deputy chairman. The provisions of Paragraph 11 of these regulations apply correspondingly.

19.3. Information on the replacement of the chairman or a deputy chairman of the commission is made public in the form of a press release about the session of the commission.

Paragraph 20. Members of the commission prove their identity by means of a document corroborating their membership and the duties they exercise in the commission, issued by the commission chairman.

## Law on Personal Income Tax

*91EP0712A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 30 Aug 91 pp IV-VI*

["Text" of law dated 26 July 1991 governing personal income tax; to be published in DZIENNIK USTAW, date and number not yet known]

[Text] Today we are publishing in its entirety the text of the long-awaited Law on the Personal Income Tax. We had it printed immediately after it was signed by the president (on 26 August). We do not yet know the number of the issue of DZIENNIK USTAW [Dz.U.] in which it will be published, but we shall notify our readers accordingly when the time comes.

* * *

**Law on the Personal Income Tax**

**Chapter 1. Scope of Taxation**

Article 1. The present law regulates the taxation of individuals.

Article 2.1. The provisions of the present law do not apply to:

1) Income from farming operations with the exception of income from special domains of agricultural production.

2) Income subject to the regulations governing the inheritance and donation tax.

3) Income derived from activities which cannot be the subject of a legally effective agreement.

2.2. Farming operations as construed by Point 1 are crop cultivation and animal husbandry, including also the production of seed, nursery, breeding, and reproductive materials; the growing of vegetables, whether natural, hothouse, or under plastic sheeting; the cultivation of ornamental plants, mushroom growing, orchardry, the breeding and production of livestock, poultry raising, care of useful insects, the raising of animals other than livestock on an industrial scale, and pisciculture.

2.3. Special domains of agricultural production are: hothouse farming, crop cultivation in heated plastic tunnels, mushroom farming, crop cultivation in vitro, poultry raising for both slaughter and reproduction, poultry hatcheries, fur-bearing animal farms, raising of laboratory animals, earthworm raising, entomophage raising, silkworm raising, apiculture, and the breeding and raising of other animals.

2.4. Whenever the present law refers to a farm, this denotes the farm as interpreted by the Law on the Agricultural Tax.

2.5. The minister of finance shall, in cooperation with the minister of agriculture and the food industry, issue an executive order defining which of the kinds of crop cultivation and animal husbandry mentioned in Paragraph 3 do not constitute special domains of agricultural production owing to their scale.

Article 3.1. Persons domiciled on the territory of the Republic of Poland or whose temporary residence in the Republic of Poland lasts longer than 183 days during a given tax year, are subject to taxation on the entirety of their incomes regardless of the origin of their sources of income (unlimited tax obligation).

3.2. The tax obligation referred to in Paragraph 1 does not apply to persons sojourning in the Republic of Poland with the object of being employed by foreign small-industry enterprises, companies established with the participation of foreign entities, and branches and offices of foreign enterprises and banks.

3.3. The following are exempt from the income tax on incomes derived from foreign sources: the personnel of diplomatic missions and consular offices and other persons eligible for diplomatic or consular privileges or immunities under international agreements or universally acknowledged international customs, as well as the

family members of their households, if these are not Polish citizens and are not permanent residents of the Republic of Poland.

Article 4. Persons who are not domiciled or sojourning on the territory of the Republic of Poland under the provisions of Article 3, Paragraph 1, as well as persons defined in Article 3, Paragraph 2, are subject to the tax obligation solely with regard to incomes from work performed on the territory of the Republic of Poland on the basis of an employment relationship, regardless of the venue of payment of remuneration, as well as with regard to other incomes derived on the territory of the Republic of Poland (limited tax obligation).

Article 5. The territory of the Republic of Poland as interpreted by the present law is also the exclusive economic zone located outside the territorial waters, in which zone the Republic of Poland under its domestic law and in accordance with international law exercises its rights regarding the studies and development of the sea bottom and its subsurface and natural resources.

Article 6.1. Spouses are subject to separate taxation of their incomes.

6.2. Spouses with joint property whose marital union continues throughout the tax year may be, however, upon their joint annual application, taxed jointly on their incomes. In this event the tax is levied in the name of both spouses in an amount double that computed for one-half of the joint incomes of the spouses.

6.3. The rule expressed in Paragraph 2 also applies if one of the spouses derives no income or if his/her income is too low to be taxable.

Article 7.1. The incomes of minors, whether natural or adopted are—with the exception of incomes from their work, scholarships, or objects given them to use freely—reckoned as part of the incomes of their parents, unless the parents do not have the right to avail themselves of the proceeds from the sources of income of their children.

7.2. If spouses are separately taxed, one half of the incomes of minors is considered as part of the taxable income of one spouse, and the other half is considered as part of the taxable income of the other spouse.

Article 8. Income from partnership in a company which is not a legal entity, from joint property, or from joint possession or joint use of a source of income, is taxed separately for each individual in proportion to his/her share. In the absence of proof to the contrary, it is assumed that the shares of partners in income are equal.

Article 9.1. All kinds of incomes are subject to the personal income tax with the exception of the incomes mentioned in Article 21. If the taxpayer derives income from more than one source, the amount subject to taxation in a given fiscal year is, with the reservation of Articles 28, 29, 30, and 41, Paragraph 3, the sum total of incomes from all sources upon deducting losses, with the exception of incomes from sources which are exempt from the income tax and losses from the sale of articles and property rights referred to in Article 10, Paragraph 1, Point 8.

9.2. Unless the provisions of Articles 24 and 25 specify otherwise, any surplus of income from a source over the related expenditures during a tax year is considered to be income from a source of income. If the related expenditures exceed the sum total of income, the difference is considered to be a loss from a source of income.

9.3. If the loss from a source of income exceeds the incomes from other sources of income, or if the taxpayer derives no income other than that from the source of income which resulted in a loss, that loss is deductible in equal parts from the income derived from that source during the subsequent three tax years.

### Chapter 2. Sources of Income

Article 10.1. Sources of income are:

1) A service, employment, or cooperative labor relationship, membership in an agricultural producer cooperative or in any other cooperative that engages in agricultural production, free-lance work, a retirement pension, or an annuity.

2) The exercise of a free profession or other independent activity of a similar nature.

3) Nonfarm business activity.

4) Special domains of agricultural production.

5) Real estate or parts thereof.

6) Leases, subleases, tenancies, subtenancies, and other agreements of a similar nature, including also leases and subleases of special domains of agricultural production and farms or their components for nonagricultural purposes or for engaging in special domains of agricultural production.

7) Financial capital and property rights.

8) Sales, with the reservation of Paragraph 2, of:

a) Real estate or parts thereof, of shares in real estate.

b) Property rights to a cooperative dwelling and rights, ensuing from allocation by housing cooperatives, to a one-family house or to a dwelling in a small apartment building.

c) Rights to perpetual usufruct of land.

d) Other items:

—If the sale is not part of nonfarm business operations, or if, in the case of sale of the real estate or property rights referred to under letters a)-c), it was accomplished prior to the expiration of five years reckoning from the end of the calendar year in which the

acquisition or construction took place, or, in the case of the sale of other items, prior to the expiration of six months reckoning from the end of the month in which the acquisition took place.

9) Other sources.

10.2. If the taxpayer avails himself of the provisions of Article 26, Paragraph 1, Point 6, with the object of deducting from his taxable income the expenditures on the construction of a residential building in which dwellings are to be leased, the sale of said building, its parts, or dwellings therein, constitutes a source of income if said sale takes place prior to the expiration of 10 years reckoning from the end of the fiscal year in which the construction took place.

Article 11.1. Money and monetary values as well as the value of the services received in kind and other nonreimbursable services constitute income when received by or placed at the disposal of the taxpayer in the calendar year, with the reservation of Articles 14-19 and Article 20, Paragraph 3.

11.2. The value of services in kind is, with the proviso of Article 12, Paragraphs 2 and 3, reckoned according to the average prices prevailing in a given locality on the date on which income from transacting items of the same kind and nature is derived, with allowance for the condition and wear of said items.

11.3. Income in foreign currencies is reckoned in zlotys according to the currency exchange rates announced by the National Bank of Poland that apply to the purchase on the day the income is derived.

Article 12.1. Income from service, employment, freelance, or cooperative labor relationship, is interpreted as all kinds of financial remuneration as well as the monetary value of services in kind or their equivalents, and in particular base pay, overtime pay, all kinds of allowances, awards, financial equivalents of unused leave, and all other payments regardless of whether their amount is or is not determined in advance, as well as the financial benefits accruing to the employee and the value of other gratuitous services.

12.2. The financial worth of services in kind is determined according to the provisions of separate regulations governing the size of and basis for the computation of the social security premiums of employees.

12.3. The value of other gratuitous benefits is determined:

1) If the benefits concern services that are part of the business operations of the employer—according to the prices charged from customers other than the employees.

2) If the benefits concern services purchased by the employer—according to the purchase prices of these services.

3) If the benefits concern the provision of a dwelling—according to the value of the rental that would be charged in the event an agreement to lease said dwelling is signed.

12.4. The employee as interpreted by the present law is a person who remains in a service relationship, an employment relationship, a free-lance employment relationship, or a cooperative labor relationship.

12.5. The taxable income of persons engaging in free-lance work does not include the value of the raw and auxiliary materials provided by these persons and the reimbursement they receive for their expenditures on transportation, power consumption, fuel, maintenance of machinery and equipment, etc., from the person on whose behalf the free-lance work is performed.

12.6. Taxable income from membership in an agricultural producer cooperative or in any other cooperative engaging in agricultural production is interpreted as any income referred to in Article 11 that is derived by the member of a cooperative or members of his/her household owing to the labor he/she contributes or by virtue of other rights specified in the statute of the cooperative, upon deducting from that income the share received from the cooperative's distributable income from farming operations, with one exception, namely, that of the income from special domains of agricultural production. The provisions of Paragraphs 2 and 3 apply correspondingly.

12.7. The retirement pension or annuity is construed as the overall amount of pension or annuity payments together with increases in these payments and allowances, exclusive of family and maternity allowances, and total-orphan allowances added to family pensions.

12.8. The minister of finance shall issue an executive order defining the basic guidelines for record-keeping at the cooperatives referred to in Paragraph 6 with the object of isolating the figures on income from farming operations for distribution among members, with the exception of income from the conduct of special domains of agricultural production.

Article 13. Income from the exercise of a free profession or of other independent activities referred to in Article 10, Paragraph 1, Point 2, is construed as, in particular:

1) Income from independently performed activities relating to the free professions, and in particular the incomes of physicians in every specialty, dental technicians, medics, obstetricians, nurses, lawyers, economists, engineers, architects, construction technicians, geodetists, patent attorneys, translators, interpreters, and accountants.

2) Income from independently performed artistic, literary, scientific, educational, and publicistic activities, including income from participation in scientific, cultural, and artistic contests and from journalism, as well as income from sports activities.

3) Income from intellectual activities, derived from sources other than the employment contract.

4) Income from the activities of Polish arbiters participating in arbitration proceedings with foreign partners.

5) Remuneration received by persons performing activities related to the exercise of social or civic duties, irrespective of the manner in which these persons are appointed and exclusive of compensation for lost pay.

6) Remuneration received by persons commissioned by a state agency, an office of state or local-government administration, a court of law, or a public prosecutor, to perform particular activities, and in particular the remuneration of experts summoned to testify in judicial, investigative, and administrative proceedings, as well as the remuneration of persons collecting public-law fees.

7) Remuneration received by persons who are, irrespective of the manner of their appointment, members of the governing boards, supervising councils, committees, or other constituent bodies of legal entities.

8) Income from personal execution of services, on the basis of a contract for performing a specified task or work, or a commission contract, concluded with a legal entity, an organizational unit lacking legal entity status, or an economic entity for the needs of that entity, if these services are not part of the scope of economic activities of their provider performed for civic purposes.

Article 14.1. Income from business activities is construed as the amounts due for business services rendered upon deducting the value of the merchandise returned and rebates and discounts granted.

14.2. The following also are regarded as income from business activities:

1) Income from the sale of partial or total assets relating to the activities performed, insofar as such assets do not constitute liquid capital or real estate or the rights referred to in Article 10, Paragraph 1, Point 8.

2) Targeted subsidies received.

3) Currency rate-of-exchange differentials.

4) Contract penalties.

Article 15. Income from special domains of agricultural production is determined in accordance with the guidelines of Article 14 if the taxpayer keeps books showing that income. The taxpayer is obligated to notify the local Treasury office of the intent to conduct such bookkeeping prior to the beginning of the tax year or prior to commencing activities relating to special domains of agricultural production if said commencing takes place in the course of the tax year.

Article 16.1. Income from real estate transferred gratuitously in its part or entirety for use by other persons is construed as the rental value of that real estate, constituting the equivalent of the rental payable by these persons in the event that a contract for the lease or tenancy of the real estate were to be concluded. The rental value of the dwellings provided to persons employed by the taxpayer does not constitute taxable income if such dwellings are part of the gratuitous benefits referred to in Article 12, Paragraph 3, Point 3.

16.2. If the owner of the real estate uses it for his/her own needs or for the needs of family members, or if he/she donates the real estate partially or entirely for scientific, research, educational, cultural, recreational-athletic, environmental, charitable, religious, or welfare purposes, or for the purpose of promoting public health, vocational and social rehabilitation of the disabled, the rental value of the part or entirety of real estate in question is not determined, and the expenditures relating to that real estate do not constitute expenditures involved in deriving an income.

Article 17. Income from financial capital is construed as interest earned on loans and bank savings deposits and time deposits, interest earned on bonds and other securities, and other income from participation in the profits of legal entities and incomes of mutual funds, including also the value of services rendered on behalf of shareowners and stock owners as determined according to the guidelines of Article 12, Paragraph 3. Also construed as income from financial capital is the income from paid transfer of title to ownership of shares in joint-stock companies, stock, and other securities, as well as income from sale of title to ownership of units in mutual funds insofar as the surplus over the cost of acquiring these units or over their value on the day of their acquisition is concerned, if said acquisition was due to an inheritance or a donation.

Article 18. Income from property rights is construed as, in particular, a pension with the legal title thereto based on a donation or a testamentary disposition, income from auctorial rights, from rights to invention proposals, from trademarks, and from decorative designs, as well as income from the sale of these rights.

Article 19.1. The income from the sale of real estate and property rights and other items, on the terms defined in Article 10, Paragraph 1, Point 8, is their value as reflected in the price specified in the sales agreement, minus the selling expenses. If, however, the price in question unjustifiably diverges greatly from the market value of these items or rights, the actual income is determined by the Treasury office according to said market value.

19.2. The market value of real estate and property rights and other items is determined on the basis of the average prices prevailing in a given locality for similar items and rights, with allowance for their condition, wear, or nature, on the day the sales agreement is concluded.

19.3. If the price specified in the sales agreement markedly diverges from the market price of the items or rights concerned, the Treasury office shall summon the parties to the agreement to modify that price or to indicate the

reasons warranting the marked discrepancy between it and the market value of the items or rights concerned. In the event no reply is received, the contract price is not changed, or the reasons for specifying a price that markedly deviates from the market price are not given, the Treasury office shall fix a new price with allowance for expert opinions. If the new price thus determined deviates by at least 33 percent from the price specified in the sales agreement, the fee for consulting experts is charged to the seller.

Article 20.1. Income from other sources as referred to in Article 10, Paragraph 1, Point 9, is construed in particular to be social-service allowances, alimony—with the exception of alimony payments for child support—scholarships, subsidies (subventions) other than those mentioned in Article 14, surcharges, monetary awards, and other gratuitous benefits that are not part of the income defined in Articles 12 and 17, as well as income from undivulged sources.

20.2. The social-service allowances referred to in Paragraph 1 are construed as illness, equalization, maternity, guardian, and rehabilitation benefits paid by the workplace or the social security office.

20.3. The income which cannot be accounted for from divulged sources, as referred to in Paragraph 1, is determined on the basis of the sum total of the expenditures incurred during the fiscal year and the aggregate value of the financial resources not derived from the already taxed or tax-exempt sources of income and previously owned financial resources.

### Chapter 3. Specific Exemptions

Article 21.1. The following are tax exempt:

1) State awards.

2) Pensions of war veterans and military veterans, granted them under separate regulations governing the pensions of war veterans and military veterans and their families.

3) Compensation received under the provisions of administrative law and civil law as well as under other laws with the exception of the compensations specified in the Labor Law on the grounds of a shortened termination notice and severance pay disbursed under separate regulations governing special terms for the discharge of employees for reasons due to the workplace.

4) Payments received by reason of property insurance or personal insurance.

5) Interest earned on bank savings accounts and time deposits, with the exception of the bank accounts maintained in connection with non-farm business activities and interest earned on bonds and other securities, with the exception of dividends.

6) Legal lottery and parimutuel winnings.

7) Death benefits and funeral allowances.

8) Family allowances, child-rearing allowances, educational allowances, and maternity hospitalization allowances.

9) Lump-sum birth benefits paid from trade-union funds.

10) Value of a service uniform, if wearing it is required of the employee.

11) Value of in-kind allowances under the regulations governing safety and hygiene of labor (including preventive meals) and the [financial] equivalents of these allowances, including also equivalents of the laundering and repair of work clothing if done by the employees themselves, financial equivalents of prolonging the useful life of work clothing, of use of personal clothing instead of work clothing, and of the articles of personal hygiene due employees but not distributed to them.

12) Value of supplementary nutrition and other meals issued to certain categories of employees for consumption exclusively during the work day, without the right to receive financial equivalents thereof.

13) Financial equivalents of the tools, materials, and equipment owned by the employees and used by them at work.

14) Monies disbursed to employees to reimburse them for relocation expenses, up to 200 percent of the salary for the month during which the relocation took place.

15) Benefits received for active military service or its equivalent or its substitute forms, with the exception of periodic or extra-length service.

16) Per diems and other reimbursable traveling expenses of employees up to the limits specified in separate regulations or, in their absence, by the provisions governing diets and other traveling expenses of employees of state enterprises.

17) Per diems and reimbursements of expenses paid to persons performing activities relating to the exercise of social and civic obligations, up to the limits defined in separate regulations.

18) Separation allowance and other benefits paid to temporarily transferred employees under the guidelines and limits specified in separate regulations governing employees of state enterprises.

19) Expenses incurred by workplaces for billeting employees in worker hostels or private quarters leased for the purpose of collective billeting, as well as expenses incurred in providing housing to employees in the event they are employed outside the localities of their permanent residence.

20) Part of the incomes of persons assigned for work abroad, in the amount corresponding to the per diems specified in separate regulations and binding for state

enterprises as regards the reimbursement of traveling expenses outside the national boundaries.

21) Ration allowances paid to ship crews in lieu of free meals, up to the limit prescribed for the separation allowance referred to in Point 18.

22) Payments to employees reimbursing them for operating motor vehicles on behalf of their workplaces:

a) With the object of performing service trips (out-of-town trips), up to the maximum rate per kilometer.

b) With the object of performing local service trips, up to the limit of the monthly lump-sum reimbursement or up to the maximum rate per kilometer,—as specified in separate regulations binding on state enterprises.

23) Allowances paid from the welfare funds and from the workplace housing fund to subsidize part of housing expenses under the guidelines of the Ministry of Labor and Social Policy.

24) Financial assistance for foster families.

25) Energy allowance for war veterans.

26) Welfare payments and allowances from the plant welfare fund and trade-union funds in the event of individual accidents, natural disaster, chronic illness, or death.

27) Benefits paid, under separate regulations, for:

a) Vocational, social, and medical rehabilitation of disabled persons, from the State Fund for the Rehabilitation of Disabled persons and the plant rehabilitation funds.

b) Emergency or periodic assistance to war veterans and their surviving family members, from the funds of the State War Veterans Fund.

28) Incomes derived from the partial or total sale of real estate that is part of a farm; this exemption does not apply to the income derived from the sale of land which, as a result, ceases to be farmland or forested land.

29) Incomes derived from compensation paid under the regulations governing the expropriation of real estate or from the sale of real estate for purposes warranting its expropriation, as well as from the sale of real estate owing to the acquisition of the right of preemption by the purchaser, under the regulations governing land management.

30) Incomes derived from the sale of the right to perpetual usufruct and from the sale of real estate acquired under separate regulations governing land management and expropriation of real estate in return for property left abroad.

31) Incomes derived from the sale of real estate or of the right to perpetual usufruct under the regulations governing the protection and shaping of environment.

32) Incomes derived from the sale of buildings or their parts, of shares in real estate, of dwelling units constituting separate real estate, of land, of the right to perpetual usufruct, or of the title to ownership of a cooperative dwelling, as well as incomes derived from housing-cooperative allocation of a single-family house or of the right to an apartment in a small apartment building:

a) The part of such income spent on acquiring in this country—not later than within a year from day of sale—another building or part thereof, or a dwelling unit constituting separate real estate, or land, or the right to perpetual usufruct, or a cooperative or ownership right to a dwelling unit; the exemption also applies to the monies derived from the sale—but not later than within two years from day of sale—if such monies are spent on the acquisition of the following rights ensuing from allocation by housing cooperatives: the right to a one-family house or to an apartment in a small apartment building, and the right to erect, expand, or repair the building or dwelling unit owned; the exemption does not apply to the monies derived from the sale when these monies are spent on the acquisition of land or the construction, expansion, or repair of a building or parts thereof designed for recreational purposes.

b) The entirety of such income, if the sale took place with the object of acquiring in return for that real estate or for those rights the right to a cooperative tenancy of a dwelling unit or an apartment building or that part thereof occupied on the basis of an administrative decision allocating the dwelling unit or the building.

c) The entirety of such income if the sale took place in execution of or connection with a multiparty agreement to exchange these buildings or rights to dwelling units.

33) Incomes of the persons referred to in Article 3 from sources of income located outside the territory of the Republic of Poland, if so specified under the international agreement to which the Republic of Poland is a party.

34) Part of the incomes from owning a share in a company which is a legal entity with a seat in the Republic of Poland, when such part is expended on the acquisition of stock or shares from the State Treasury or on the acquisition of securities issued by authorized Polish entities.

35) Incomes from the business activities of persons who employ disabled individuals to the extent of and under the guidelines of the Law on the Employment and Vocational Rehabilitation of the Disabled.

36) Incomes from the operation of nonstate schools as construed by the regulations governing the development of the educational system, with respect to the part of these incomes that has been expended on operating the schools during the tax year or during the subsequent year.

21.2. The provisions of Paragraph 1, Point 32, do not apply if the construction and sales of buildings and dwelling units are the subject of the taxpayer's business activities.

21.3. The minister of finance shall, in cooperation with the minister of national education, issue an executive order defining the kinds of expenditures that can be classified as school operating expenditures as referred to in Paragraph 1, Point 36.

### Chapter 4. Income Deductions

Article 22.1. The costs of deriving incomes from particular sources of incomes [that is, the tax-deductible expenses] are all the expenses incurred on deriving those incomes, with the exception of the expenses referred to in Article 23. Expenses incurred in foreign currencies are reckoned in terms of zlotys according to the exchange rates announced by the National Bank of Poland on the day on which said expenses are incurred.

22.2. The deductible expenses linked to incomes derived from a service employment, labor, cooperative, or freelance relationship, are determined in the amount of 3 percent of the upper limit of the first division on the scale referred to in Article 27, Paragraph 1, annually.

22.3. The deductible expenses linked to incomes other than those mentioned in Paragraph 2 also include:

1) Deductions due to the depreciation of fixed assets and nonmaterial and legal values, as well as deductions for the net value of completely depreciated or destroyed fixed assets.

2) Partial or total loss of fixed assets and liquid capital due to circumstances beyond control; the loss is deductible in the part thereof not offset by insurance or depreciation allowances.

3) Expenditures on R&D work, including also on failed projects.

4) Expenditures on standardization and on the development and evaluation of standardization projects.

5) Remuneration of the authors of invention proposals, rationalization proposals, and useful designs, and the awards for these proposals and designs.

6) Interest paid on obligations including loans, and fixed encumbrances on the source of incomes, except those defined in Article 23, Points 10, 11, and 13.

7) Taxes, fees, and insurance premiums linked to the sources of income, with the exception of those mentioned in Article 23, Point 7.

8) Expenditures on employees incurred directly by employer if ensuing from the collective labor bargaining agreement or from other binding legal acts.

9) Deductions for the social services and housing funds in accordance with the provisions and ceilings defined in separate regulations governing the plant social services and housing funds.

10) Debts written off as irrecoverable and reserve funds for covering the debts whose irrecoverability is plausible, as well as other reserve funds if the obligation of setting them up and debiting them to expenses ensues from separate regulations.

11) Expenditures on advertising in the mass media or in some other public manner.

12) Cost of representation and advertising conducted in a manner other than that defined in Point 11 for up to 0.25 percent of income.

13) Currency rate-of-exchange differentials for persons engaging in business activities.

14) Other expenditures, if the obligation of debiting them to operating expenses is envisaged by separate regulations.

22.4. Deductible expenses are, with the reservation of Paragraphs 5 and 6, deducted only for the tax year in which they were incurred.

22.5. Taxpayers who conduct bookkeeping or keep business ledgers can deduct their operating expenses from the income specified in these books or ledgers only for the tax year to which they pertain; i.e., operating expenses incurred in the years preceding the tax year with regard to income derived during the tax year also are deductible, as are specified kinds and amounts of operating expenses which have been included in calculations although they were not yet incurred because they pertain to the income derived in the given tax year, unless including them in the calculations was not feasible—in that event they are deductible for the year in which they were incurred.

22.6. The rule stipulated in Paragraph 5 also applies to taxpayers who keep tax records of income and expenditures, on condition that in every tax year these records be kept in a manner serving to isolate the deductible expenses pertaining to that tax year alone.

22.7. The property components regarded as fixed assets, the appraisals of their current worth, and their depreciation rates, inclusive of the depreciation of nonmaterial and legal values, are determined under the separate regulations governing the income tax levied on legal entities.

22.8. The minister of finance shall issue an executive order defining the procedure for determining the initial value of fixed assets and nonmaterial and legal values and for keeping the related records, for taxpayers who are not obligated to conduct bookkeeping or keep ledgers.

22.9. Deductible expenses in case of certain incomes are determined in the following proportions of income derived:

1) Payment for transferring title to the ownership of an invention proposal, a trademark, or a decorative design: 50 percent.

2) Licensing fee for transfer of title to the utilization of the invention proposal, trademark, or decorative design, received during the first year of the license rom the first unit with which the licensing agreement is concluded: 50 percent.

3) Utilization of auctorial rights by authors and their disposition of these rights: 50 percent.

4) For reasons referred to in Article 13, Points 2, 4, 6, and 8: 20 percent.

22.10. If the taxpayer proves that his/her deductible expenses exceeded the percentile ratios specified in Paragraph 9, his/her actual deductible expenses will apply.

Article 23. The following are disallowed as deductible expenses:

1) Expenditures on the acquisition of land, or of the right to perpetual usufruct from land, and expenditures on the acquisition or production of other fixed assets and nonmaterial and legal values, if these assets and values are depreciable; however, such expenditures are considered deductible when determining the income from the sale of the items referred to in Article 10, Paragraph 1, Point 8, Letter d) irrespective of the period of time in which they are incurred.

2) Expenditures on rental payments based on agreements for lease or tenancy of specified items for a specified time limit with the option of their purchase by the leasee or tenant for a price specified in the agreement (leasing agreements) in the part thereof referring to the repayment of the value of the item if the leasee or tenant makes depreciation deductions over the time period of the agreement.

3) Deductions for and payments to various kinds of funds, unless the obligation or possibility of forming or contributing to such funds by the taxpayer and debiting them to his/her deductible expenses is specified in separate regulations.

4) Expenditures on repayment of encumbrances, including loans, and on amortizing the capital remaining in connection with the formation (acquisition), augmentation, or improvement of the source of income.

5) Interest earned on the taxpayer's own capital invested in a source of income.

6) Donations and gifts of all kinds.

7) Income tax, inheritance and donation tax, and turnover tax on excessive and culpable decrements in products.

8) Lump-sum compensation for work accidents and occupational diseases and extra insurance premiums in the event that a deterioration in working conditions is established.

9) Costs of administrative execution involved in the failure to execute obligations.

10) Fines and monetary penalties specified in criminal, Treasury, and administrative proceedings and the interest rate charged on these fines and penalties.

11) Fines, fees, compensation payments, and the interest rate charged thereon, for:

a) Failure to adhere to regulations governing environmental protection.

b) Failure to execute the orders of the appropriate supervising and monitoring bodies concerning violations of safety and hygiene of labor.

12) Arrears written off as expired under the statute of limitations.

13) Interest charged on delays in executing obligations to which apply the provisions of the Law on Tax Obligations.

14) Contract penalties for defects in merchandise shipped, work executed, or services rendered, and for delays in providing defect-free merchandise or delays in eliminating defects of merchandise or problems with the work or services rendered.

15) Expenditures on obtaining income from sources located on the territory of the Republic of Poland or abroad if such income is generally not taxable or is exempt from the income tax.

### Chapter 5. Detailed Guidelines for Determining Income

Article 24.1. For taxpayers who prepare financial statements in accordance with the binding rules of accounting, income from business activity is construed as income proved on the basis of correctly kept books minus the tax-exempt incomes and plus the expenditures previously ruled tax-deductible but now considered nondeductible.

24.2. For taxpayers who derive their incomes from business activity and who keep books of income and expenditures, income from business activity constitutes the difference between income as construed in Article 14 and expenditures, plus the difference between the value of the final and initial inventory of merchandise, basic and auxiliary raw materials, semifinished products, finished products, rejects, and wastes, if the value of the final inventory is higher than that of the initial inventory, or minus the difference between the value of the final and initial inventory if the value of the initial inventory is higher. Income or loss from the sale of components of fixed assets involved in pursuing business activities is the difference between the income derived

from the sale and the value of the fixed assets as specified in the records kept for depreciation deductions plus the amount of these deductions.

24.3. In the event that the taxpayer notifies the local Treasury office of his/her intent to terminate business activity, income is determined upon applying—to the value of the remaining (on closing day) inventory of merchandise, basic and auxiliary raw materials, semifinished products, finished products, rejects, and wastes—the percentile indicator ensuing from the proportion of expenditures to income in the last 3 months preceding the month on which the business activity is terminated, or in the year preceding the tax year.

24.4. Income from special domains of agricultural production is the difference between the income derived from operating these domains and the related operating expenditures, plus the value of the increase in the animal herd at the end of the tax year compared with the size of that herd at the beginning of the year, or minus the value of losses of that herd during the tax year. If the taxpayer does not conduct the bookkeeping referred to in Article 15, income from special domains of agricultural production is determined according to the norm of estimated income per surface area unit of cropland or per animal output unit.

24.5. Income from share in profits of legal entities is the income actually derived from such profits as well as the income earmarked for augmenting founding capital or share capital.

24.6. Income from the sale of the items referred to in Article 10, Paragraph 1, Point 8, Letter d), if the income from such sale does not constitute income from business activity, is the difference between the income derived from the sale of these items and the cost of acquiring them, minus sales expenses and the value of the investments in maintaining these items prior to their sale.

24.7. The minister of finance shall, in cooperation with the minister of agriculture and the food industry, issue an executive order defining the norms of estimated income referred to in Paragraph 4.

Article 25.1. If the taxpayer who exists in a business relationship with a person domiciled or resident abroad derives no income therefrom or if his/her income therefrom is less than should be expected had that relationship not existed, the income of that taxpayer should be determined without allowing for the special encumbrances ensuing from that relationship. If it is not possible to determine that income in the absence of bookkeeping records, the size of that income is estimated.

25.2. The provisions of Paragraph 1 apply correspondingly if the taxpayer avails himself/herself of the business relationship with a person eligible for special income tax discounts or with another taxpayer who is eligible for a special allowance on strikingly more advantageous terms that diverge from the generally applicable norms for the time and place in question by attributing his/her income partially or entirely to that person or another taxpayer and as a result his/her own income is not as high as should be expected were the relationship in question nonexistent or were the allowance in question not applicable.

### Chapter 6. Tax Base and Amount Calculable

Article 26.1. The basis for computing the tax due is, with the reservation of Articles 28, 29, 30, and 41, Paragraph 3, the income determined under Article 9, Article 24, or Article 25, after deducting the following:

1) Donations for research, scientific, technical, educational, cultural, religious, recreational, sports, environmental, and charitable purposes, or for the purpose of promoting public health, social services, and the vocational and social rehabilitation of the disabled, and also for purposes relating to housing construction for local governments—up to an amount of not more than 10 percent of income, or unlimited if so stipulated in separate regulations. The following are not deductible: donations to individuals, legal entities, and organizational units lacking legal entity status who or which accomplish the abovementioned purposes with the object of showing a profit, and donations to individuals to whom these donations constitute personal income.

2) Social security premiums paid to insure the taxpayer and his/her associates, as well as other premiums paid directly by the taxpayer if the obligation of paying them ensues from separate regulations.

3) Pensions and other legal encumbrances that are not included in the expenditures associated with deriving an income, as well as alimony payments, with the exception of child-support payments, in the amount specified in the alimony ruling.

4) Dues paid to the organizations in which the taxpayer's membership is mandatory.

5) Expenditures on the taxpayer's housing, with the object of:

a) Purchasing land or the right to perpetual usufruct of the land under a planned residential building.

b) Erecting a residential building.

c) Contributing a structure or land to a housing cooperative, other than the contribution ensuing from the transformation of a tenant's right to cooperative housing to the right to own cooperative housing.

d) Purchasing a residential building or a dwelling in that building from the persons who erected that building as part of their business activities.

e) Adding an extra floor or otherwise expanding a building for residential purposes.

f) Reconstructing an attic or a drying room or otherwise adapting other premises for residential purposes.

g) Repairing and renovating a residential building or a dwelling.

6) Expenditures on erecting a multifamily residential building owned by the taxpayer with the object of renting out the apartments therein, and expenditures on purchasing a suitable building lot in that connection.

7) Expenditures incurred by the taxpayer on personal professional training and advanced training, in an amount up to one-half of the average monthly wage for the country as a whole as construed by Article 27, Paragraph 3, of the present law.

8) Expenditures on rehabilitation, incurred by a disabled taxpayer, or by a person caring for disabled persons.

26.2. The expenditures on the purposes defined in Paragraph 1, Point 5, Letter a), are deductible from income in the amount of the expenditures actually incurred for the period during which the present law is mandatory, but they may not exceed an amount constituting the mathematical product of a surface area of 350 square meters and the price of one square meter of land or the value of the right to perpetual usufruct of the land as of the day of its acquisition.

26.3. The aggregate amount of the actual expenditures deductible for the purposes defined in Paragraph 1, Point 5, Letters b)-f), for the period during which the present law is mandatory, may not exceed the mathematical product of 70 square meters of useful surface area and the conversion index per square meter of the useful surface area of a residential building, determined with the object of computing the guaranteed interest paid on special bank deposits opened with the object of saving money to buy apartments, for the third quarter of the year preceding the tax year.

26.4. The aggregate amount of the actual expenditures deductible for the purposes defined in Paragraph 1, Point 5, Letter g), for the period during which the present law is mandatory, many not exceed one-fifth of the amount referred to in Paragraph 3. The deduction applies if the expenditures on repair or renovation during the tax year amounted to at least 2 percent of the amount referred to in Paragraph 3.

26.5. The amount of the actual expenditures deductible for the purposes referred to in Paragraph 1, Point 6, may not exceed the equivalent of the mathematical product of the amount referred to in Paragraph 3 and the number of apartments set aside for leasing.

26.6. The amount of expenditures for the purposes defined in Paragraph 1, Points 5 and 6, is determined on the basis of documents proving these expenditures.

26.7. The expenditures on the purposes defined in Paragraph 1, Point 5, are deductible if they are not incurred in order to derive an income or if the taxpayer is not reimbursed for them in any other way whatsoever.

26.8. If spouses are subject to separate taxation and incur expenditures on the purposes defined in Paragraph 1, Point 5, these expenditures are deducted, up to the limits defined in Paragraphs 2-5, separately for the income of each spouse according to the proportion of that income to the combined income of both spouses.

26.9. The expenditures referred to in Paragraph 1, Points 5 and 6, which are not covered from the annual income of the taxpayer are deductible from his/her income derived in the subsequent years until they are completely deducted, within the limits defined in Paragraphs 2-5.

26.10. If the taxpayer or his/her spouse receive a bank loan or a loan from his/her workplace for the purposes defined in Paragraph 1, Points 5 and 6, the amount of the loan is deducted from the monies expended for the abovementioned purposes and repayments of the loan are deductible together with the interest charged thereon, in the years in which these repayments are made.

26.11. The minister of finance shall announce the aggregate amount of deductible expenditures referred to in Paragraph 3 in DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ "MONITOR POLSKI" by 31 December of the year preceding the tax year.

26.12. The minister of finance shall, in cooperation with the minister of national education, issue an executive order defining the kinds of expenditures referred to in Paragraph 1, Point 7, and the guidelines and requirements for their tax-deductibility.

26.13. The Council of Ministers may issue an executive order specifying that investment expenditures also are deductible from income, if they promote business activity; this also applies to expenditures on a more efficient utilization of energy carriers, and in particular on the acquisition and installation of heat and water meters; the Council also defines the guidelines and requirements for deducting them from income.

26.14. The minister of finance shall, in cooperation with the minister of labor and social policy, issue an executive order defining the kinds of expenditures referred to in Paragraph 1, Point 8, and the guidelines and requirements for their deductibility.

Article 27.1. The income tax is, with the reservation of Articles 28, 29, and 41, Paragraph 3, collected according to the following scale:

| Tax Base (in zlotys) | | Tax Amount |
|---|---|---|
| More Than | Up To | |
| 0 | 64,800,000 | 20 percent of tax assessment basis minus the following amount: 864,000 |
| 64,800,000 | 129,600,000 | 12,096,000 + 30 percent of surplus above 64,800,000 |
| 129,600,000 | | 31,536,000 + 40 percent of surplus above 129,600,000 |

27.2. If the sole source of income of a taxpayer is among those taxable under the scale in Paragraph 1, and, after deducting the tax determined under Article 9 and Article 24, Paragraphs 1 and 2, the taxpayer is left with an income lower than the level specified annually in the budget law, the tax is determined only in the amount exceeding that level.

27.3. The income gradations subject to taxation as defined in the table in Paragraph 1 and the amount deductible from the tax or from the advance tax payment as computed according to the first level of that scale beginning with the 1993 tax year, are each year subject to an increase to an extent corresponding to the indicator of the increase in the average monthly wage for the country as a whole during three quarterly periods in the year preceding the tax year as compared with a like period last year.

27.4. The minister of finance shall issue an executive order defining the scale of the income tax for each tax year, with allowance for the rule stipulated in Paragraph 3, on the basis of reports of the Main Statistical Administration on the average monthly wage in the country as a whole during three quarterly periods in the year preceding the tax year and on the increase in that wage compared with a like period last year, as announced in DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ "MONITOR POLSKI" by 15 November of the year preceding the tax year.

27.5. If, in addition to his/her taxable personal income the taxpayer derives income from sources located outside the territory of the Republic of Poland, and if the latter income is tax-exempt under Article 21, Paragraph 1, Point 33, the income tax is determined as follows:

1) The tax-exempt income is added to the taxable personal income and the tax on the resulting sum total is computed according to the scale provided in Paragraph 1.

2) The percentile rate of the tax for the thus computed sum total of income is determined.

3) The percentile rate determined according to Point 2 is applied to the taxable personal income alone.

27.6. If the persons referred to in Article 3 also derive income from sources of income located outside the territory of the Republic of Poland, and if that income is subject to the personal income tax levied by the foreign country concerned, and if the circumstances defined in Article 21, Paragraph 1, Point 33, do not apply, and unless specified otherwise in the agreement, concluded with that foreign country, to prevent double taxation, that income is combined with the income from sources of income located on the territory of the Republic of Poland. In that event, an amount equal to the income tax already paid to the foreign country is deductible from the Polish income tax computed for the aggregate income. This deduction may not be greater than the tax paid to the foreign country.

Article 28.1. Income from the sale of real estate and property rights defined in Article 10, Paragraph 1, Point 8, Letters a)-c), is not combined with income from other sources.

28.2. The tax on the income referred to in Paragraph 1 is determined in the amount of 10 percent of that income, in a lump-sum amount. This tax is payable without a summons within 14 days from the day of sale.

28.3. If the requirements referred to in Article 21, Paragraph 1, Point 32, Letter a), are not met, the tax is payable not later than one day following the elapse of the time limit specified in that provision, together with the interest rate charged as of the payment deadline specified in Paragraph 2 until the day of payment, in the amount of one-half of the interest rate charged on tax arrears.

Article 29. The personal income tax levied on incomes derived on the territory of the Republic of Poland by the persons referred to in Article 4 from the business activities defined in Article 13, Points 2 and 6-8, and from auctorial rights, from rights to invention proposals, trademarks, and decorative designs, and also from sale of these rights, from payments received for imparting recipe secrets or manufacturing secrets, for using or for the right to use an industrial, commercial, or research facility, or for information (know-how) relating to the experience acquired in industrial, commercial, or scientific domains, is determined in the amount of 20 percent of the income, in lump-sum form, unless the agreement to prevent double taxation, concluded with the country of the taxpayer's domicile, provides otherwise.

Article 30.1. The following incomes are not combined with incomes from other sources:

1) Interest charged on loans, except when the taxpayer is in the business of lending funds, and profits from dividends and other income from participation in the profits of legal entities.

2) Awards for assisting the police or the Office for State Protection, paid out of the operational funds.

30.2. The tax on the incomes referred to in Paragraph 1 is levied in the amount of 20 percent of the income, in lump-sum form.

### Chapter 7. Tax Collection, Withholding Taxes

Article 31.1. Individuals, legal entities, and organizational units lacking legal entity status, hereinafter referred to as workplaces [institutions, plants, cooperatives], are obligated as payers to compute and withhold for income tax purposes money from the wages and salaries and other taxable personal income of the persons employed by these workplaces, whether these are employed on full-time, cooperative, or free-lance basis.

31.2. The other income referred to in Paragraph 1 is the income defined in Article 13, Points 7 and 8, and the financial social-service allowances received by the taxpayer from the workplace with which he/she remains in a service, employment, or cooperative labor relationship—and at labor cooperatives, as well as payments representing shares in operating surplus.

Article 32.1. The advance or withholding tax payments referred to in Article 31 for the months from January to November—and, if the workplace is not obligated to perform annual tax computations—also December, amount to 20 percent of the income derived by an employee in a given month.

32.2. The income referred to in Paragraph 1 is considered as the incomes gained during the month as construed by Article 12, minus the deductible expenditures in the amount defined in Article 22, Paragraph 2. If in-kind benefits, benefits paid for the taxpayer, or other gratuitous benefits, are received by the taxpayer over a period longer than 1 month, the tax withholdings for individual months are computed according to the value of these benefits per month. If it is not possible to determine the part of these benefits due for a single month, and if crediting the entire value of these benefits to a single month would result in an immoderately high withholding tax for a single month, the workplace shall, on the taxpayer's request, curtail the amount to be withheld for the given month and withhold the balance during the subsequent months of the tax year.

32.3. The withholding tax computed in the manner defined in Paragraphs 1 and 2 is reduced by 72,000 zlotys if, before receiving his/her first wage, the employee submits on a standard form a declaration to the effect that he/she:

1) Is not receiving a retirement pension or an annuity.

2) Derives no income from a producer cooperative or a farming cooperative.

3) Does not have an income warranting advance tax payments under Article 44.

4) Does not receive any special benefits from the employment office.

5) Names the workplace concerned as the proper one for applying the withholding tax mentioned above in the event that he/she concurrently derives incomes from other workplaces by virtue of his/her service, employment, or cooperative labor relationship or on a free-lance basis.

32.4. The employee is obligated to notify the workplace on changes in his/her employment status as compared with the original declaration, prior to the receipt of remuneration for the month in which these changes take place.

Article 33.1. Agricultural producer cooperatives and other cooperatives engaging in agricultural production are obligated to collect the withholding tax from the the payments disbursed to their members for adjusted work days or for sharing in the distributed income of the cooperative, as well as from other income of their members as defined in Article 13, Points 7 and 8, and from social-service payments.

33.2. The withholding tax referred to in Paragraph 1 amounts to 20 percent of the monthly income, minus 72,000 zlotys, for the months from January to November—and if the cooperative is not obligated to compute the annual total tax due, also for December.

33.3. The amount of the personal income tax withheld from the payments for adjusted work days worked by cooperative members is computed by excluding from taxation that part of these payments which is linked to the agricultural activities defined in Article 12, Paragraph 6, in the same percentile ratio in which the share of income from these activities in the overall distributed income of the cooperative applied during the preceding year.

Article 34.1. Pension offices are obligated, in their capacity as payers, to withhold personal income taxes on a monthly basis from the retirement pensions and annuities disbursed directly by these offices, and from social-service payments.

34.2. The withholding tax referred to in Paragraph 1 amounts to 20 percent of the retirement pension or annuity, minus 72,000 zlotys, for the months from January to November—and if the pension office is not obligated to compute the total annual tax due, also for December.

34.3.The withholding tax referred to in Paragraph 1 on social-service payments amounts to 20 percent of the payments disbursed directly by the pension office.

34.4. The withholding tax computed as per Paragraph 3 is reduced by 72,000 zlotys if:

1) The allowance is paid for a full calendar month and linked to the existence of a service, employment, cooperative, or free-lance labor relationship, and if:

2) The recipient submits to the labor office not only documents warranting the payment of the allowance but also a declaration, on a standard form, affirming that,

during the period of time when the allowance is received, he/she:

a) Does not receive a retirement pension or annuity.

b) Does not derive any income other than that derived in the workplace at which employment insurance is the basis for acquiring the right to the allowance.

c) The workplace referred to under Letter b) computes the withholding tax on the employee's income in the manner defined in Article 32, Paragraph 3.

d) Is not receiving an allowance from the employment office. The provisions of Article 32, Paragraph 4, apply correspondingly.

34.5. On directly disbursing the social-service allowances linked to the existence of a service, employment, freelance, or cooperative labor relationship with the workplace, the pension offices are obligated to transmit not later than by the 20th day of the subsequent month information, on standard forms, on the amount of allowance paid and the amount of tax withheld to the taxpayer and his/her workplace.

34.6. In the event that the pension office directly pays an allowance to a recipient who is no longer employed, the guidelines defined in Paragraphs 3 and 4 and in Article 32, Paragraph 3, apply correspondingly.

Article 35.1. Employment offices are obligated to withhold the personal income tax at monthly intervals from the benefits they disburse.

35.2. The withholding tax referred to in Paragraph 1 amounts to 20 percent of the allowance for individual months of the tax year.

Article 36. With regard to the taxpayers referred to in Articles 31, 33, 34, and 35, who have no sources of income other than the income they derive from the tax-withholding workplace, the monthly withholding tax and the annual tax obligation are computed in accordance with the corresponding provisions of Article 27, Paragraph 2, with the proviso that the withholding tax is computed in an amount 1/12th higher than that computed according to those provisions.

Article 37.1. If an employee, a member of an agricultural producer cooperative or of another cooperative engaging in agricultural production, a pensioner or an annuitant, or the recipient of an allowance, submits to the tax-withholding workplace or institution referred to in Articles 31, 33, or 34, before 31 December of the tax year, a declaration on a standard form, considered as tantamount to an affidavit, that he/she:

1) Does not avail himself/herself of the possibility of submitting a joint income tax declaration with his/her spouse.

2) Has no other source of income except:—social-service allowances linked to employment at the tax-withholding workplace, and—the incomes defined in Articles 28, 30, and 41, Paragraph 3.

3) Is not incurring the tax-deductible expenditures referred to in Article 26; the tax-withholding workplace is then obligated to compute the employee's annual tax obligation according to the guidelines of Article 27. The tax obligation thus computed represents the personal income tax due for the year.

37.2. In the event that the employee, or the member of an agricultural producer cooperative or another cooperative engaging in agricultural production, referred to in Paragraph 1, derives an income in the form of social-service allowances paid directly by a pension office in connection with employment at the workplace, the workplace should, when computing the annual tax obligation referred to in Paragraph 1 allow for the employee's (member's) income from social-service allowances and for the tax payments already withheld by the pension office in the amount specified in the notice received from that office under Article 34, Paragraph 5.

Article 38.1. The tax-withholding workplaces referred to in Articles 31, 33, 34, and 35 transfer, with the reservation of Paragraph 2, the withheld tax payment, not later than by the 20th day of the subsequent month, to the account of the local Treasury offices along with a corresponding statement, on a standard form, specifying the overall amount of wages disbursed in a given month under Article 31, Paragraph 1, the amount of the income tax withheld, and the amount of the tax deposited in the account of the Treasury office; if the amount of the tax withheld and the amount of the tax deposited are not the same, the difference has to be explained in the statement.

38.2. Protected tax-withholding workplaces [i.e., workplaces especially established to employ the disabled] donate the withheld tax to:—the State Fund for the Rehabilitation of the Disabled (10 percent);—the workplace fund for the rehabilitation of the disabled (90 percent).

38.3. Tax-withholding workplaces perform the annual tax computation referred to in Article 37 not later than by 31 January after the elapse of the tax year. The difference between the annual tax computed and the sum total of the tax payments withheld during the months from January to November, if no tax is withheld for December on the taxpayer's request, and in the case of pensioners and annuitants also ex officio, may be withheld from the income for January, February, and March of the subsequent year. If on the other hand the annual tax computation points to an overpayment of withholding tax, the returnable amount is credited to the tax to be withheld for the following January, and if there is still some surplus left, that surplus is refunded in cash to the taxpayer by the workplace.

38.4. The cash refunds are deducted by the workplace from the withheld tax payments transferred to the Treasury office, on making corresponding statements in the declaration referred to in Paragraph 1.

Article 39.1. The tax-withholding workplaces referred to in Articles 31, 33, 34, and 35, are obligated to prepare in triplicate by 31 March of the year subsequent to the tax year, in accordance with the standard forms, notices for each concerned taxpayer stating the amount of his/her income and the amounts of the taxes due and withheld. One copy of the notice is provided by the workplace to the taxpayer. The second copy is transmitted not later than by 15 April to the local Treasury office proper for the address of the taxpayer.

39.2. If the obligation of withholding taxes ceases for the workplaces referred to in Articles 31, 33, 34, and 35, in the course of the year, these workplaces are obligated to prepare the notice referred to in Paragraph 1 and transmit copies thereof to the taxpayer and the local Treasury office proper for the address of the taxpayer not later than by the 15th day of the month following the month for which the last tax payment was withheld.

39.3. The banks handling the payments of foreign pensions and annuities are obligated, not later than by 31 January of the year subsequent to the tax year, to prepare in triplicate, on a standard form, a statement indicating the amount of the pension or annuity paid each pensioner or annuitant. One copy of the statement is provided to the taxpayer, and another to the local Treasury office proper for the address of the taxpayer.

39.4. On the request of those taxpayers who have no other income save a foreign pension or annuity, with the exception of the incomes mentioned in Articles 28, 30, and Article 41, Paragraph 3, the banks in their capacity as tax-withholding institutions are obligated to withhold in the course of the year income tax payments from the pensions and annuities disbursed and, after the elapse of the year, to compute the annual income tax due from the pensioners and annuitants. The taxes withheld over the months of from January to November—and if the bank is not obligated to compute the annual tax due, also for the month of December—amount to 20 percent of the pension or annuity disbursed, minus 72,000 zlotys. The provisions of Paragraph 1 and Article 36 apply correspondingly. In this case Paragraph 3 does not apply.

Article 40. The taxpayers referred to in Articles 31, 33, 34, and 35, if they have other sources of income from which the tax-withholding workplaces or institutions are not obligated to withhold taxes, are obligated to make advance tax payments on their own in accordance with the guidelines of Article 44.

Article 41.1. Individuals constituting economic entities, legal entities, and organizational units lacking legal entity status, who dispense the following kinds of payments:

1) Remuneration for the activities defined in Article 13, Points 2 and 5-8, for auctorial rights and for the rights to invention proposals, trademarks, and decorative designs, and also for the purchase of these rights.

2) Interest on loans as well as dividends and other income from participation in the profits of legal entities, are obligated, in their capacity as tax-withholding institutions, to withhold the following taxes from the remunerations disbursed:

—for the reasons defined in Point 1—income tax equal to 20 percent of the remuneration paid at monthly intervals to the persons defined in Article 3 minus the deductible expenses, or the lump-sum income tax referred to in Article 29, if the remuneration is paid to the persons defined in Article 4.

—for reasons defined in Point 2, a lump-sum income tax.

41.2. With the object of computing the withholding tax referred to in Paragraph 1, Point 1, the allowance for deductible expenses is computed at the level defined in Article 22, Paragraph 9.

41.3. If the remuneration due—under contract—paid to a person who is not an employee of the tax-withholding workplace or institution, for reasons defined in Paragraph 1, Point 1, is less than 200,000 zlotys, the tax withheld constitutes the tax due on the income earned for these reasons.

41.4. Organizational units of the police or of the Office of State Protection are, in their capacity as tax-withholding institutions, obligated to withhold lump-sum income tax from the remuneration paid for reasons defined in Article 30, Paragraph 1, Point 2.

41.5. The amount referred to in Paragraph 3 is subject, starting with the tax year 1993, to an annual increase to an extent corresponding to the indicator of increase in the amount serving as the upper limit of the first gradation on the scale referred to in Article 27, Paragraph 1.

41.6. The minister of finance issues annually, with allowance for the rule referred to in Paragraph 5, an executive order stipulating the income level for which the tax withheld constitutes the tax due.

Article 42. The tax-withholding institutions referred to in Article 41 transfer the amounts withheld, whether withheld monthly or withheld in a lump sum, not later than by the 7th day of the subsequent month to the account of the Treasury office proper for the address of the taxpayer or, when taxpayers who are not resident or sojourning in the Republic of Poland are concerned, to the Treasury office proper for taxing aliens. The tax-withholding institutions also are obligated to provide the Treasury office with a list of tax payments withheld, on a standard form. This list does not include the taxes withheld under Article 41, Paragraph 4.

Article 43.1. Taxpayers who derive their incomes from special domains of agricultural production are obligated to submit to the proper Treasury office, on a standard form, by 30 November of the year preceding the tax year,

declarations specifying the kinds and scale of production intended for the following year.

43.2. If income from special domains of agricultural production is determined on the basis of bookkeeping records, the taxpayers provide the proper Treasury office, by the deadline referred to in Paragraph 1, a declaration of the amount of anticipated income for the subsequent year.

43.3. The taxpayers referred to in Paragraph 1 are obligated to notify within seven days the proper Treasury office if:

1) Changes in production take place as compared with the anticipated figures in the declaration.

2) The operation of facilities needed for the year-round production cycle is discontinued or commenced in the course of the year.

3) The operation of special domains of agricultural production is commenced in the course of the year; in this event, these taxpayers submit the declaration referred to in Paragraph 1 concerning the kinds and scale of production intended for that year.

43.4. The taxpayers referred to in Paragraph 1 are obligated to deposit in a bank or in the account of the proper Treasury office monthly advance tax payments in the amount specified in the ruling of the Treasury office and following the schedule specified in Article 44, Paragraph 6.

43.5. If the taxpayers referred to in Paragraph 1 have other sources of income in addition to special domains of agricultural production, they submit advance payments of tax on that income under the provisions of Article 44 without combining that income with their income from special domains of agricultural production.

Article 44.1. The taxpayers deriving their income from the sources stated below are obligated to deposit advance payments of their personal income taxes without a prior summons, under the guidelines defined in Paragraph 3:

1) Business activities or independently performed activities referred to in Article 13, Point 1.

2) The independently performed activities referred to in Article 13, Point 2, if they derive that income without the mediation of the tax-withholding institutions referred to in Article 41, Paragraph 1.

3) Abroad, on the basis of a labor relationship.

4) Foreign pensions and annuities.

5) Lease or tenancy.

44.2. Income from business activity serving as the basis for computing the advance tax payments due from taxpayers who conduct tax bookkeeping of income and expenditures, represents the difference between the income thus recorded and the expenditures on obtaining it. If at month end the taxpayer takes an inventory of the merchandise and raw and auxiliary materials, or if the Treasury office orders taking that inventory, the income is determined according to the guidelines of Article 24, Paragraph 2.

44.3. The taxpayers referred to in Paragraph 1 are obligated to make monthly advance tax payments. The amounts of these payments for the months from November of the tax year are determined as follows:

1) The obligation of making the monthly advance tax payment arises beginning with the month in which income exceeds the level above which the tax obligation arises.

2) The advance tax payment for that month is the tax on that income computed under the guidelines of Articles 26 and 27.

3) the advance tax payments for the subsequent months are determined in the amount of the difference between the tax due on the income obtained at the beginning of the year and the sum total of advance tax payments in the preceding months.

44.4. In the event that business activity is discontinued, the income from closing the business, as determined according to the guidelines of Article 24, Paragraph 3, is added to the income obtained during the last month the business was open.

44.5. If the taxpayer shows that the previous advance tax payments, computed according to the guidelines of the preceding provisions, were incommensurately high in relation to the tax actually due for the year in question, the Treasury office may, on the taxpayer's request, correspondingly reduce henceforth the size of these advance payments.

44.6. Monthly advance tax payments for the months from January to November are made by the 20th day of the subsequent month. The monthly advance tax payment for December is made by the 20th day of December, however. Concurrently with these payments, the taxpayers are obligated to submit to Treasury offices declarations, on a standard form, of the amount of actually obtained income since the beginning of the year.

### Chapter 8. The Income Tax Return

Article 45.1. Taxpayers are obligated to file with Treasury offices income tax returns stating the amounts of their actual incomes for the tax year, on a standard form, not later than by 30 April of the subsequent year.

45.2. The obligation of submitting an income tax return does not apply to the taxpayers referred to in Article 37.

45.3. The income tax return referred to in Paragraph 1 does not apply to the incomes referred to in Articles 28, 29, 30, and Article 41, Paragraph 3.

45.4. The taxpayers who are obligated to file income tax returns must pay, within the time limit defined in Paragraph 1, the difference between the tax due on the income reported on the return and the sum total of the monthly advance tax payments made for the year in question, including also the tax payments withheld by tax-withholding institutions.

45.5. Taxpayers who conduct bookkeeping or keep ledgers append to their income tax returns an annual financial statement, while taxpayers who keep books of income and expenditures append these books to their returns.

45.6. The income tax ensuing from the tax return is the tax due for a given year, unless the Treasury office rules that a different tax amount is due.

### Chapter 9. Amendments to Binding Regulations

Article 46. In the law of 16 December 1972 on the income tax (Dz.U., No. 27, Item 147, and No. 74, Item 443, 1989; No. 9, Item 30, 1991), Article 9, Paragraph 1, Point 22, is reworded as follows:

"22) incomes of the taxpayers employing disabled persons, to the extent of and under the guidelines defined in the separate Law on the Employment and Vocational Rehabilitation of the Disabled."

Article 47. In the law of 26 February 1982 on the taxation of units of the socialized sector (Dz.U., No. 12, Item 77, 1987; No. 3, Item 12, No. 35, Item 192, and No. 74, Item 443, 1989; No. 21, Item 126, 1990, and No. 9, Item 30, 1991) the following amendments are incorporated:

1) Article 23 is deleted.

2) In Article 26 Point 6 is deleted.

Article 48. In the law of 14 December 1982 on retirement benefits of employees and their families (Dz.U., No. 40, Item 267, 1982; No. 52, Item 268, 1984; No. 52, Item 270, 1984; No. 1, Item 1, 1986; No. 35, Items 1290 and 192, 1989; No. 10, Items 58 and 61, 1990; No. 36, Item 206, 1990; No. 66, Item 390, 1990; No. 87, Item 506, 1990, and No. 7, Item 24, 1991) the following amendments are incorporated in Article 107:

1) In Paragraph 1 "after deducting the income tax due" is inserted after "the pension office."

2) In Paragraph 3 "after deducting the income tax due" is inserted after "alimony payments."

Article 49. In the law of 24 October 1986 on the plant social services and housing funds at units of the socialized sector (Dz.U., No. 58, Item 343, 1990), in Article 4 and in Article 7 the following Paragraph 3 is added: "3. In 1992 the base of the deductions referred to in Paragraph 2 is increased by 20 percent."

Article 50. In the law of 31 January 1989 on the income tax of legal entities (Dz.U., No. 49, Item 216, 1991), Article 9, Paragraph 1, Point 11 is reworded as follows:

"11) The income of the taxpayers who employ the disabled to the extent and according to the guidelines defined in the separate Law on the Employment and Vocational Rehabilitation of the Disabled."

Article 51. In the law of 9 May 1991 on the employment and vocational rehabilitation of the disabled (Dz.U., No. 46, Item 201), the following amendments are incorporated:

1) Article 7 is reworded as follows:

"Article 7. The payments referred to in Article 4, Paragraph 1, and Article 6, Paragraph 2, are not deductible expenditures as construed by the regulations governing the income tax."

2) In Article 8:

a) In Paragraph 1 "Article 4 and Article 6, Paragraph 2" is deleted and "Article 4, Article 6, Paragraph 2, Article 17, Paragraph 3, and Article 20, Paragraph 3, Point 1" is inserted in lieu thereof.

b) Paragraph 2 is revised as follows:

"2. Workplaces perform the payments referred to in Article 4, Paragraph 1, Article 6, Paragraph 2, Article 17, Paragraph 1, and Article 20, Paragraph 3, by the 20th day of the month subsequent to the month in which circumstances warranting the payment obligation arise, while at the same time submitting, on a standard form, a corresponding statement to the Governing Board of the State Fund for the Rehabilitation of the Disabled."

c) The following Paragraph 3 is added:

"3. The ruling of the chairman of the Governing Board of the State Fund for the Rehabilitation of the Disabled concerning the payments referred to in Article 4, Paragraph 1, Article 6, Paragraph 2, Article 17, Paragraph 1, and Article 20, Paragraph 3, Point 1, can be appealed by workplaces to the minister of labor and social policy."

3) In Article 17, Paragraph 1, "in income tax, wage tax, or remuneration tax" is replaced with "in income tax and in wage tax."

4) In Article 20, Paragraph 4 is henceforth denoted as Paragraph 5 and the following new Paragraph 4 is added:

"4. The deadline for transfer of the funds referred to in Paragraph 3 and in Article 17, Paragraph 3, is fixed on the 20th day of each month subsequent to the month for which the tax exemptions apply."

5) In Article 22 Paragraph 4 is reworded as follows:

"4. The minister of labor and social policy, in cooperation with the ministers of finance and health and social

welfare, shall issue an executive order defining the guidelines for the utilization of the resources of the rehabilitation fund and the procedure for determining the in-plant rules for the utilization of these resources."

**Chapter 10. Interim and Final Provisions**

Article 52. The following are exempted from the income tax:

1) In the years 1992 and 1993, income from the sale of stock, shares, bonds, and other securities, except when such sale is the object of business activity, as well as income from the sale of shares in mutual funds.

2) The kinds of incomes below, if paid after 31 December 1991 but due for the period until that date, and if they were exempted in 1991 from the tax on remunerations based on wage regulations:

a) Income from service, employment, cooperative, or free-lance labor relationship, bonuses from profits (income), and awards from the plant award fund in connection with the kinds of relationship referred to under Letter a).

b) commissions, awards, bonuses from profits (income), and awards from the plant award fund in connection with the kinds of relationship referred to under Letter a).

3) Severance pay linked to retirement pensions or annuities, jubilee awards, and other lump-sum payments to which the employee acquired the right in 1992 and whose amount depends on the remuneration determined according to the wage or salary rates binding until 31 December 1991, if these incomes were exempted in 1991 from the tax on remunerations based on wage regulations.

4) Domestic retirement pensions and annuities and other social security benefits due for the period until 31 December 1991.

Article 53.1. The minister of finance may issue executive orders exempting partially or totally from income tax other kinds of income in addition to those mentioned in Article 21, Paragraph 1, and specify the requirements for such exemptions.

53.2. The exemptions defined in the regulations issued on the basis of Paragraph 1 1 may apply not longer than until the end of 1993.

Article 54.1. As of 1 January 1992 the following become null and void:

1) The law of 7 February 1949 on the remuneration tax (Dz.U., No. 7, Item 41, 1949; No. 44, Item 201, 1956; No. 11, Item 69, 1959; and No. 57, Item 309, 1963).

2) The law of 26 February 1982 on the taxation of units of the socialized sector (Dz.U., No. 12, Item 77, 1987; No. 3, Item 12, 1989; No. 74, Item 443, 1989; No. 21, Item 126, 1990; and No. 9, Item 30, 1991), in the part concerning the wage tax.

3) The law of 28 July 1983 on the equalization tax (Dz.U., No. 42, Item 188, 1983; No. 52, Item 268, 1984; No. 34, Item 254, 1988; and No. 35, Item 192, 1989).

4) The law of 16 December 1972 on the income tax (Dz.U., No. 27, Item 147, and No. 74, Item 443, 1989; and No. 9, Item 30, and No. 35, Item 155, 1991).

5) The law of 15 November 1984 on the agricultural tax (Dz.U., No. 52, Item 268, 1984; No. 46, Item 225, 1986; No. 1, Item 1, 1988; No. 7, Item 45, and No. 10, Items 53 and 192; No. 74, Item 44, 1989; No. 34, Item 196, 1990; and No. 7, Item 24, 1991), to the extent concerning the agricultural tax on personal incomes from special domains of agricultural production.

6) Article 27 of the law of 14 June 1991 on joint-stock companies with foreign participation (Dz.U., No. 60, Item 253).

7) Provisions of special laws in the part containing exemptions of certain categories of individuals from the taxes referred to in Points 1-5, or the related tax rebates.

54.2. The provisions of the laws referred to in Paragraph 1 apply to taxing the incomes attained prior to 1 January 1992.

54.3. The housing and investment exemptions granted under the law referred to in Paragraph 1, Point 3, and the investment exemptions granted under the laws referred to in Paragraph 1, Points 4 and 5, but not utilized by 1 January 1992, apply correspondingly to the personal incomes and personal income taxes levied under the present law.

54.4. The taxpayers who already availed themselves of deductible expenses under Article 7, Paragraph 2, of the law referred to in Paragraph 1, Point 3, up to the limit specified in the regulations issued on the basis of Article 7, Paragraph 5, of that law, are no longer eligible for such deductions under Article 26, Paragraph 1, Point 5, of the present law. If these taxpayers availed themselves of these deductions only partially, they remain eligible for such deductions up to the amount of the difference between the amounts defined under the law mentioned in Paragraph 1, Point 3, and the amounts utilized, augmented in the same percentile ratio as that of the amount of deductions computed under the present law to the amount of deductions permitted under the law mentioned in Paragraph 1, Point 3.

54.5. Periodic exemptions from the income tax under Article 10 and Article 22, Point 1, of the law referred to in Paragraph 1, Point 4, remain binding until their expiration date.

54.6. For taxpayers who, under the law referred to in Paragraph 1, Point 3, deposited their incomes in special bank accounts, the amounts withdrawn from these accounts after 1 January 1992 are considered to be

taxable income as construed by the present law, with the reservation, however, that in 1992 these funds will be exempt from the income tax up to an amount not exceeding the upper limit of the first gradation on the scale defined in Article 27, Paragraph 1. In the event that the taxpayer also has other sources of income, except those defined in Articles 28, 30, and 41, Paragraph 3, the tax obligation and the amount of the tax due on these incomes are determined by combining them with the income derived from the funds withdrawn from the special bank account.

Article 55.1. Workplaces shall increase the remuneration due employees for January 1992, on computing it in such a manner that, after the income tax is deducted, it would be not lower than the remuneration paid in the preceding month, with the reservation of Paragraphs 2-5.

55.2. The remuneration referred to in Paragraph 1 is considered to be all kinds of monetary payments due for service, employment, or cooperative relationship or on the basis of a free-lance contract as well as the monetary value of in-kind payments or their equivalents ensuing from the pay regulations applying at the particular workplace.

55.3. Following the recomputation referred to in Paragraph 1, the employee's remuneration may not be higher than 125 percent of the previous remuneration.

55.4. The elements of the remuneration paid for periods longer than 1 month and due the employee after 31 December 1991, with the exception of those mentioned in Paragraph 5, as computed in the amount ensuing from the most recent previous payment and computed for the period of 1 month, are added to the remuneration referred to in Paragraph 1 prior to its recomputation.

55.5. In the recomputation referred to in Paragraph 1 no allowance is made for the following:

1) Severance pay linked to retirement pension or annuity, jubilee awards, and other lump-sum employment-related payments and benefits.

2) Awards.

3) Income tax-exempt remuneration.

4) Elements of remuneration whose level is determined in relation to the minimum level to which the income tax still applies.

5) Remuneration paid to the employee by another workplace and income from other sources.

55.6. Pension offices shall increase the domestic retirement pensions and annuities due as of 1 January 1992 to an extent such that, after the income tax due is deducted, these pensions and annuities would remain not lower than before the income tax was introduced and the related indicators would not decline. The provisions of Paragraph 3 apply correspondingly.

55.7. For taxpayers for whom the retirement pension or annuity is the sole source of income, the amount referred to in Article 27, Paragraph 2, is subject to a 100 percent increase if the right to these benefits and the tax obligation existed on the effective date of the present law or arose on that date.

55.8. Whenever the regulations governing social security refer to remuneration, emoluments, income, basis for determining premiums, average wage, and anticipated average wage, after 31 December 1991 the concerned amounts should be construed as allowing for the income tax with the reservation of Paragraphs 9 and 10.

55.9. The indicator of the first cost-of-living adjustment of retirement pensions and annuities in 1992 is determined by dividing the sum total of the average wage anticipated for the given quarter of the year, without allowing for the wage increases due to the introduction of the income tax, by the amount of the anticipated average wage serving as the basis for the most recent previous adjustment. The latter amount will be, without allowing for the wage increases due to the introduction of the income tax, determined and announced by the chairman of the Main Statistical Administration, by the procedure defined in the Law on the Retirement Benefits of Employees and Their Families.

55.10. The size of the benefits applied for during a quarterly period for which the adjustment indicator is based on Paragraph 9, is determined by multiplying the anticipated average wage for the quarterly period for which the previous pension adjustment was carried out by the indicator of the wage level.

55.11. When determining the amount of the requested benefits for the quarterly period following the quarterly period for which the adjustment indicator was determined in accordance with Paragraph 9, the basis for that amount is determined by multiplying the anticipated average wage for the preceding quarterly period, as construed by Paragraph 8, by the wage indicator.

55.12. The minister of labor and social policy shall issue, in cooperation with the minister of finance, an executive order defining the procedure for computing the kinds of remuneration referred to in Paragraphs 1-5 as well as the retirement pensions and annuities referred to in Paragraph 6 and social-service allowances.

Article 56.1. In connection with the introduction of the income tax the size of the allowances (additional payments) defined in relation to the minimum pension or the average wage has to be redefined so that it shall not be lower than the allowances (additional payments) granted on 31 December 1991.

56.2. The Council of Ministers shall issue an executive order defining the size of the allowances (additional payments) referred to in Paragraph 1 in relation to the average wage that comprises the income tax.

Article 57.1. Until the expiration of the legal consequences of agency contracts and commission contracts concluded on the basis of separate regulations, the sources of income as construed by Article 10 also include the activities performed on the basis of these contracts.

57.2. Income from the activities referred to in Paragraph 1 is determined according to the guidelines of Article 14. In the case of commission contracts reimbursement of the expenditures of the commission provider constitutes a deductible expense if it pertains to a given tax year, even if it is not yet incurred.

57.3. Taxpayers with the sources of income referred to in Paragraph 1 are obligated to make advance monthly tax payments and submit annual income tax returns in accordance with the guidelines of Articles 44 and 45.

Article 58. The present Law takes effect on 1 January 1992, with the exception of Articles 46, 47, 50, and 51, which take effect on the day of publication, effective as of 1 July 1991.

## Sejm Resolution on Radio, Television Issue

*92EP0016A Warsaw MONITOR POLSKI in Polish No 24, 31 Jul 91 Item No 65 p 199*

[Resolution of the Sejm dated 19 July concerning information policy on radio and television broadcasting]

[Text] The Sejm of the Republic of Poland expresses its great alarm over the situation in radio and television, and especially over the current information policy which impairs the credibility of the mass media. We view as inadmissible the practices intended to curtail the freedom of presentation of differing views or even to apply a kind of political censorship. Let it be borne in mind that public radio and television are obligated to present accurately occurrences and events as well as diverse interpretations and opinions.

We are disturbed to see that television has in recent times become an instrument used against the Sejm by providing inaccurate information about the Sejm's work while at the same time failing to provide clarifications and objective reports on the subject, even those presented on behalf of Sejm committees and caucuses of deputies.

The Sejm of the Republic of Poland draws attention to the growing, especially in television, phenomenon of the provision of inaccurate and subjective information to the public concerning the country's political life. This is particularly dangerous in view of the approaching parliamentary elections. It is inadmissible for the heads of the Committee for Radio and Television to guide themselves by their personal political sympathies by preferring some political forces and disregarding and ignoring others.

In such a situation the Sejm deems it necessary for the government to evaluate as soon as possible the performance of the heads of the Committee for Radio and Television and report accordingly to the Sejm.

—Speaker of the Sejm: M. Kozakiewicz

## Law on Privatization of Commercial Companies

*91P20478A Bucharest MONITORUL OFICIAL in Romanian 16 Aug 91 pp 1-7*

[Law No. 58 on the privatization of commercial companies]

[Text] The Parliament of Romania adopts the present law.

To achieve the transfer of state property to the private sector under conditions that ensure the distribution to qualified Romanian citizens of the equivalent of 30 percent of the social capital of commercial companies, the present law, which contains regulations governing the sale of shares or assets of commercial companies to individuals or legal persons, Romanian or foreign, is adopted.

### CHAPTER I. General Provisions

#### Article 1

The law on the privatization of commercial companies provides the proper legal framework for the transfer of state property to the private ownership of individuals or legal persons.

For this purpose, the following are regulated by law:

a) the procedures for distributing certificates of ownership, free of charge, to qualified Romanian citizens;

b) the methods of privatizing commercial companies;

c) the offering of shares or assets of commercial companies that are for sale to employees of such companies;

d) the participation by individuals and legal persons, Romanian or foreign, in the sale and purchase of shares or assets of commercial companies.

#### Article 2

The provisions of this law apply to joint-stock or limited liability companies organized in accordance with the provisions of Chapter III of Law No. 15/1990, as well as to commercial companies established by the association of commercial companies with the Romanian state as the sole shareholder, which will be referred to as "commercial companies," as well as to some autonomous administrations which will be transformed, by decisions of the government, into commercial companies.

#### Article 3

The privatization of commercial companies will be achieved by the transfer, free of charge, of a portion of the shares belonging to the state and by the sale of the shares remaining after the transfer, under the conditions of the present law.

Also, portions of the patrimony of commercial companies can be transferred in the direct form of sale of assets, under the conditions specified by the law.

The gratis transfer takes place by the distribution of certificates of ownership.

Certificates of ownership are shares of a financial nature in commercial companies and are called Private Ownership Funds.

The holders of certificates of ownership have the right, under conditions stipulated by law, to choose to:

a) sell the certificates of ownership;

b) exchange their certificates of ownership, on the basis of market conditions, for shares of any commercial company which is to be privatized, at any time, within a period of no more than five years from the date that this law goes into effect;

c) convert the certificates of ownership that still remain at the end of the five-year period into shares of the Private Ownership Funds, following the organization of these funds in mutual fund-type commercial companies.

The administration and sale of shares of stock or social shares held by the state are effected through the intermediary of a public institution of a commercial and financial nature, called the State Ownership Fund.

The protection of holders of certificates of ownership, and of employees and members of the management of commercial companies, in the framework of the privatization process, as well as the conditions for the participation of foreign investors, will be achieved in accordance with the present law.

### CHAPTER II. Establishment and Organization of Private Ownership Funds

#### Article 4

Five Private Ownership Funds—commercial joint stock companies—will be established.

The statute of the Private Ownership Funds will be proposed by the government and approved by Parliament.

The statute of each individual Private Ownership Fund will provide regulations on the rights and obligations of the fund and its organization and operation.

#### Article 5

Initially, the Private Ownership Funds will hold a total of 30 percent of the social capital of commercial companies organized in accordance with the provisions of Chapter III of Law No. 15/1990, with the exception of the portion of the social capital of the commercial companies which will be privatized under the conditions stipulated by Chapter V of the present law.

The allocation of 30 percent of the social capital of the commercial companies among the five Private Ownership Funds will be carried out by the National Agency for Privatization.

**Article 6**

The Private Ownership Funds, as shareholders in commercial companies, in their relations with these companies exercise all the rights and obligations given to them by law.

**Article 7**

The main objectives of the Private Ownership Funds will be to:

a) issue certificates of ownership under the conditions stipulated by law;

b) seek to maximize the profits accruing to holders of certificates of ownership.

c) examine and stipulate methods for using the certificates of ownership to obtain shares of commercial companies;

d) provide brokerage services for converting certificates of ownership, which they have issued, into shares of stock, on the basis of market conditions;

e) restructure its stock portfolio and make new investments in order to maximize the market value of certificates of ownership;

f) initiate measures to accelerate the privatization of commercial companies allocated to each of them, including the sale of shares, regardless of whether such shares belong to the State Ownership Fund, and inform this fund in regard to the respective measures.

**Article 8**

Each Private Ownership Fund will be managed by a board of directors consisting of seven members.

The members of the first board of directors and the first auditors of each fund will be proposed by the government, recommended by the economic commissions of the Chamber of Deputies and the Senate and approved by the two chambers, separately, for a term of five years.

The members of the first board of directors and the first auditors of each Private Ownership Fund will be chosen from among persons with experience in the commercial, financial, legal or industrial fields.

Members of the first board of directors and the first auditors of each Private Ownership Fund can be recalled by the authority which appointed them.

A person can be on the board of directors of only one Private Ownership Fund and he cannot be a member of a board of directors of any commercial company allocated to the respective fund.

**Article 9**

The board of directors of each Private Ownership Fund elects a president and a vice president, from among its members.

**Article 10**

The Private Ownership Funds carry out their activity and make decisions on commercial principles, observing the statute approved for each fund.

**Article 11**

Each Private Ownership Fund uses the income and the profits realized in the proportions set by its board of directors for the following purposes:

a) the distribution of dividends to holders of ownership certificates;

b) deposits in interest-bearing accounts;

c) covering all necessary expenses for functioning and for any other commercial operations in connection with their activity.

**Article 12**

The board of directors of each Private Ownership Fund approves the annual activity report which is published in MONITORUL OFICIAL AL ROMANIEI.

The annual report will include the measures taken by the Private Ownership Fund with a view to accelerating the privatization process.

The results of the activity of each Private Ownership Fund will also be reported to the public through the mass media.

**Article 13**

The board of directors of each Private Ownership Fund approves the balance sheet and the profit and loss statement.

**Article 14**

The Private Ownership Funds will act as joint stock commercial companies under the conditions stipulated by the present law and by Law No. 31/1990 on commercial companies only for a period of five years from the date that the present law goes into effect.

After the expiration of the period stipulated in Paragraph 1, the Private Ownership Funds will be organized, in accordance with the law, into joint interest commercial stock companies of the mutual fund type.

Persons who still own certificates of ownership as of the date of the organization of the commercial companies stipulated in Paragraph 2 become shareholders in these companies. The certificates of ownership will be converted into shares in these commercial companies and

the shareholders will determine the manner of voting which can be direct, by proxy, or by correspondence.

**Article 15**

Under the conditions stipulated by law, each Private Ownership Fund shall issue certificates of ownership—in bearer form—to all Romanian citizens with residence in Romania who were at least 18 years of age on 31 December 1990, free of charge and on an equal basis. These certificates shall have a nominal value determined by the ratio between the capital of each Private Ownership Fund and the number of citizens who have the right to receive certificates of ownership.

Certificates of ownership represent a joint participation of Romanian citizens in the Private Ownership Funds.

**Article 16**

The list of Romanian citizens eligible to receive certificates of ownership will be drawn up by the National Agency for Privatization, together with the prefectures and the office of the mayor of Bucharest Municipality, in collaboration with the Ministry of the Interior.

**Article 17**

The National Agency for Privatization shall distribute the certificates of ownership with the assistance of the local organs of public administration.

The distribution of the certificates of ownership will be carried out according to the conditions set by the National Agency for Privatization on the date and at the place announced by the Agency in MONITORUL OFICIAL and by the mass media.

**Article 18**

Certificates of ownership which are not claimed within 180 days of the date announced by the National Agency for Privatization will be cancelled by the Private Ownership Funds.

**Article 19**

Certificates of ownership may be traded on the stock exchange under the conditions specified in the law on the organization and operation of the stock exchange.

**Article 20**

Certificates of ownership may be exchanged for shares of commercial companies, observing the procedures established by the board of directors of each Private Ownership Fund.

**Article 21**

Holders of certificates of ownership have the following rights:

a) to receive annual dividends, which will be paid under the conditions and by the dates set by the Private Ownership Funds;

b) to propose actions for improving the specific activity of each fund, to initiate financial reviews to be carried out by the auditors, or to ask, with justification, for the replacement of members of the board of directors on the condition that the proposals be supported by the holders of at least 10,000 certificates of ownership;

c) to purchase shares of commercial companies which are put up for sale by the State Ownership Fund for a 10 percent discount off the public offering price. They can do so for a limited period of time prior to the public sale of shares during a period of five years from the date that this law goes into effect, and in an amount which is no greater than the market value of the certificates of ownership held;

d) to obtain brokerage serices from the Private Ownership Funds for the exchange, under market conditions, of certificates of ownership for shares of any commercial company offered for privatization;

e) and any other rights established by law for shareholders.

**Article 22**

Certificates of ownership cannot be transferred to foreign individuals or legal persons.

## CHAPTER III. Establishment and Organization of the State Ownership Fund

**Article 23**

The State Ownership Fund is hereby established as a public institution—as a legal person—of a commercial and financial nature.

**Article 24**

The State Ownership Fund will initially own 70 percent of the social capital of the commercial companies organized in accordance with the provisions of Chapter IV of Law No. 15/1990, with the exception of the portion of the social capital of commercial companies which are privatized in accordance with the conditions stipulated in Chapter V of this law.

**Article 25**

In regard to the commercial companies, the State Ownership Fund, as a shareholder, will exercise all the rights and obligations incumbent upon it in this capacity, in accordance with the law.

In this regard, the State Ownership Fund will have the following main obligations:

a) to take measures to reduce the participation of the state in the social capital of the commercial companies until their complete privatization;

b) to define minimum performance criteria for evaluating commercial companies, as well as the policy for the utilization of dividends which are due to them;

c) to take measures for restructuring and rehabilitating commercial companies or, when necessary, for liquidating unprofitable commercial companies;

d) to participate in the implementation of measures initiated by the Private Ownership Funds to accelerate the privatization process;

e) to execute, along with the Private Ownership Funds, the functions assigned by the law to the general meeting of shareholders.

**Article 26**

The State Ownership Fund carries out its activity and makes the decisions on the basis of commercial principles.

The revenues of the State Ownership Fund will be used in the proportions set by the board of directors for the following:

a) making deposits in interest-bearing accounts;

b) making the necessary investments for restructuring, rehabilitating, and increasing the profitability of commercial companies, but without increasing by such investments the proportion of the participation of the state in the companies' social capital;

c) granting credits to Romanian individuals or legal persons with private capital for the purchase of shares or assets of commercial companies;

d) financing the expenses connected with preparing for and carrying out the privatization of commercial companies;

e) any other commercial operations connected with the objectives of the activity of the State Ownership Fund.

**Article 27**

The State Ownership Fund, in the exercise of the functions assigned to it by law, must:

a) keep accounting records, observing the norms set for commercial companies;

b) submit any litigations that might result from its activity to the competent courts for resolution; by commercial contracts signed with foreign partners it can agree that any litigations can be resolved by arbitration in the country, or abroad, or by the courts.

The State Ownership Fund shall not enjoy immunity of jurisdiction or execution in regard to its entire activity.

**Article 28**

Each year the State Ownership Fund must draw up a privatization program for the following year and a report on the activity held over the past 12 months.

The program will include proposals for the privatization of at least 10 percent of the shares held initially.

The program and the activity report will be presented to the government for its information, and to the Parliament for approval.

The report of the State Ownership Fund and the statement of profits and losses will be published in MONITORUL OFICIAL as well as in the mass media.

After seven years have passed since the beginning of the activity of the State Ownership Fund, based on the report submitted to the Parliament, the Parliament will make a decision based on the situation existing at that time regarding the State Ownership Fund's activity and the procedures to be followed, with a view to the management of the participation of the state in commercial companies.

**Article 29**

The State Ownership Fund will lawfully cease its activity once the complete privatization of commercial companies with state capital is achieved.

The assets held by the State Ownership Fund at the time that it ceases its activity become income in the budget of the central state administration.

The budget of the central state administration will assume the financial obligations of the State Ownership Fund at the time that the latter ceases its activity.

**Article 30**

The State Ownership Fund will be managed by a 17-member board of directors.

The board of directors will consist of:

a) five members appointed by the president of Romania from among persons with training and experience in the commercial, financial, legal, or industrial field;

b) three members appointed by the Permanent Bureau of the Senate;

c) three members appointed by the Permanent Bureau of the Assembly of Deputies;

d) five members appointed by the government from among the leadership cadres of the central organs of public administration;

e) and the state secretary for privatization.

**Article 31**

The members of the board of directors will be appointed for a five-year term and can be reelected for only one additional term.

The members of the board of directors can be removed by the authority which appointed them.

The board of directors elects a chairman and a vice-chairman from among its members. The state secretary for privatization cannot hold either one of these positions.

The sessions of the board of directors will be chaired by the chairman or, in his absence, by the vice chairman.

**Article 32**

The auditors of the State Ownership Fund will be appointed and removed by the permanent bureaus of the two chambers of Parliament on the recommendation of the Ministry of Economy and Finance.

**Article 33**

The regulation on the organization and operation of the State Ownership Fund will be drafted by the board of directors and approved by the government.

**Article 34**

The board of directors requires the presence of 12 of its members in order for valid actions to be taken, and valid decisions are made by the vote of three-quarters of the directors present.

**Article 35**

The board of directors will meet at least once a month.

The board of directors can be convened in extraordinary sessions by the chairman or at the request of at least five of its members.

The meetings of the board of directors must be convened by written notice, at least five days in advance of the proposed meeting, and the notice must be accompanied by the agenda.

**Article 36**

The chairman of the board of dirctors ensures the implementation of the decisions of the board of directors and, for this purpose, he exercises the following main functions:

a) he signs or approves the signing of contracts by the State Ownership Fund in accordance with its object of activity;

b) he approves payment and deposit operations in the name of the State Ownership Fund;

c) he appoints and removes the directors of the State Ownership Fund;

d) he commits and represents the State Ownership Fund in relations with individuals or legal persons, as well as before jurisdictional courts;

e) he annually presents the privatization program, the program of revenues and expenditures, the activity report, and the report on the execution of the budget, prepared in accordance with Article 28, to the board of directors for approval.

**Article 37**

The everyday activity of the State Ownership Fund is managed by an executive general manager appointed by the chairman of the board of directors with the concurrence of the board of directors.

The chairman of the board of directors can delegate to the executive general manager the right to commit and to represent the State Ownership Fund in relations with individuals or with legal persons, as well as before jurisdictional courts.

The executive general manager carries out his activity under the control of the chairman of the board of directors.

**Article 38**

During the entire course of its activity, the State Ownership Fund is exempt from the payment of profit tax and prohibited from making any payments to the budget of the central state administration or the local budgets.

## CHAPTER IV. Special Provisions on the General Meetings and Board of Directors of Commercial Companies

**Article 39**

The general meeting of shareholders in commercial companies will consist of the representatives of the State Ownership Fund and the Private Ownership Fund to which the commercial company is allocated.

The councils of state representatives will continue their activity and will represent the State Ownership Fund in the first general meeting of the shareholders.

The conditions for the appointment, removal, resignation, and remuneration of representatives of the State Ownership Fund in the general meeting of shareholders will be stipulated by the regulations on the organization and operation of the State Ownership Fund.

**Article 40**

The general meeting of shareholders appoints the board of directors, composed of three to nine persons, one of whom is the chairman of the board of directors and the general manager or manager of the commercial company.

Each Private Ownership Fund will have the right to appoint to the board of directors a number of members

which is proportional to the capital it holds in the respective commercial company.

**Article 41**

The provisions of Article 39 and Article 40 will be applicable to commercial companies as long as they have as shareholders only the State Ownership Fund and one or more Private Ownership Funds.

## CHAPTER V. Privatizations Initiated Prior to the Organization of the Funds

**Article 42**

The National Agency for Privatization is authorized to execute the privatization of commercial companies by the sale of shares prior to the organization of the Private Ownership Funds and the State Ownership Fund.

At the proposal of commercial companies with state capital and on the basis of recommendations formulated by the ministries involved, the National Agency for Privatization selects the commercial companies to be privatized, which will be no more than 0.5 percent of the total number of commercial companies covered by this law.

**Article 43**

The evaluation of the social capital, and the sale of the shares of commercial companies before the organization of the funds, are authorized by the councils of state representatives.

Employees and members of the management of the commercial companies benefit from the rights specified in Article 48 if they buy shares put on sale prior to the organization of the funds.

**Article 44**

Commercial companies which are privatized by the sale of shares prior to the organization of the funds can enter into specialized assistance contracts with Romanian or foreign firms under competitive conditions.

Specialized assistance contracts with foreign firms are signed with the concurrence of the National Agency for Privatization.

**Article 45**

The proceeds resulting from the sale of shares of commercial companies prior to the organization of the funds will be deposited in an interest-bearing account at the National Bank of Romania.

Some 70 percent of the sums referred to in Paragraph 1 will be deposited in the State Ownership Fund and 30 percent in the Private Ownership Funds at the time of the organization of the funds.

## CHAPTER VI. Sale of Shares of Commercial Companies

**Article 46**

Shares in commercial companies held by Private Ownership Funds and the State Ownership Fund can be sold to individuals or legal persons, Romanian or foreign, by:

a) public offering of shares;

b) sale of shares on the basis of an open auction or an auction limited to preselected participants;

c) sale of shares through direct negotiation;

d) any combination of the above procedures.

**Article 47**

The employees of the commercial companies and members of the management can participate in purchasing shares through any of the procedures specified in Article 46.

**Article 48**

Shares in commercial companies put up for sale by the State Ownership Fund on the basis of a public offering of shares or an auction, will be offered for purchase to the employees or the members of the management of the respective companies on a preferential basis, as follows:

a) in a public offering of shares, employees and members of the management will have the right to buy, for a limited period, up to 10 percent of the shares offered for sale, with a discount of 10 percent off the public offering price;

b) in a sale of shares through an auction, any employee or member of the management, or any association of such persons, will have the right to buy shares on a preferential basis in the event that such persons or such a group of persons offer a price that is, at the most, 10 percent lower than the highest price offered in the auction and that they respect all the other conditions of the offer.

Shares of commercial companies put up for sale by the State Ownership Fund through direct negotiation will be awarded to employees and members of the management of these commercial companies under conditions which are equal to those set for other purchasers.

**Article 49**

The State Ownership Fund will have the right, in accordance with the conditions set by its board of directors and with commercial principles, to facilitate the purchase of shares in commercial companies by employees, members of the management, and retirees, by the following means:

a) credits;

b) deferred payment;

c) payment by installments;

d) other concessions, taking into account the specific nature of the shares and the concrete conditions in carrying out the sale.

**Article 50**

The sale of shares by the State Ownership Fund will be carried out in accordance with the procedures stipulated in Article 46.

The sale specified in Paragraph 1 is carried out only with the approval of the National Agency for Privatization if, by this sale, the State Ownership Fund loses its position as a stockholder which has control of the respective commercial company.

In order to obtain approval, the State Ownership Fund must present the main conditions of the sale to the National Agency for Privatization, in writing, prior to the sale.

The National Agency for Privatization must either approve or reject the proposal for the sale within 30 days of its receipt.

**Article 51**

In the case in which individuals or legal persons, Romanian or foreign, wish to purchase 100 percent of the shares of a commercial company, the State Ownership Fund will delegate to the Private Ownership Fund, to which the commercial company is allocated, the power to negotiate, on its behalf, the conditions of the sale.

**Article 52**

The conditions for organizing and carrying out the sales of shares and for presenting proposals for the sale, as well as the criteria on the basis of which the National Agency for Privatization will approve or reject the proposals for the sale, will be set by methodological norms compiled by the National Agency for Privatization and approved by decision of the government.

The methodological norms will be published in MONITORUL OFICIAL.

## CHAPTER VII. Sale of Assets of Commercial Companies

**Article 53**

Commercial companies which own assets that represent units which can be organized and can function independently have the right to sell such assets.

**Article 54**

The sale of assets referred to in Article 53 will be carried out on the basis of a public auction or sealed bidding, with sale to the highest bidder.

**Article 55**

The sale of assets of commercial companies through a public auction or sealed bidding will be carried out in accordance with legal provisions and the methodological norms compiled by the National Agency for Privatization and approved by decisions of the government. The methodological norms will be published in MONITORUL OFICIAL.

**Article 56**

The National Agency for Privatization is required to prepare, within three months, a list of assets of commercial companies which will be put up for sale in the first 12 months after the present law goes into effect.

**Article 57**

Individuals or legal persons, Romanian or foreign, can participate in the purchase of assets of commercial companies in accordance with the provisions of this law.

Persons who purchase assets under the conditions of the present law will not have the right to sell them, to lease them, or to transfer their use in any other way for a one-year period from the date of the signing of the contract of sale and purchase.

**Article 58**

Public institutions, autonomous administrations, and commercial companies which have the state as the only shareholder do not have the right to participate in purchases of assets specified in Article 53 of the present law.

**Article 59**

The employees of commercial companies, with the exception of members of the management, but including retirees whose last job was in the respective company, have the right to participate in the sales of assets of commercial companies in accordance with Article 54.

In the situation in which purchasing conditions equal to those existing for other purchasers are offered, the sale will be carried out with preference given to the employees, the retirees whose last job was in the respective company, or Romanian citizens who are using these assets on the basis of tenancy management contracts.

**Article 60**

The commercial companies which are doing the selling, with the approval of the National Agency for Privatization, the Private Ownership Funds, and the State Ownership Fund, under the conditions set by their boards of directors, can facilitate the purchase of assets by workers in commercial companies and retirees on the basis of commercial principles and by the following means:

a) credits;

b) deferred payment;

c) payment in installments;

d) other concessions, taking into consideration the specific nature of the assets sold.

**Article 61**

The sale of the assets of commercial companies will be considered to be final at the time of the signing of the contract of sale and purchase, under the conditions of the law.

**Article 62**

The proceeds of sales of assets will be utilized by the commercial company only for:

a) making new investments;

b) repaying debts resulting from the receipt of medium-term or long-term investment credits.

## CHAPTER VIII. The Tasks of the National Agency for Privatization

**Article 63**

The National Agency for Privatization is the government organ responsible for the coordination, guidance, and control of the privatization process.

**Article 64**

The National Agency for Privatization has the following tasks:

a) on the basis of its governing statute, to submit the statutes of the Private Ownership Funds for the approval of the government;

b) to publish in MONITORUL OFICIAL the methods to be used in distributing certificates of ownership;

c) to draw up the lists of Romanian citizens who have the right to receive certificates of ownership;

d) to ensure the distribution of certificates of ownership;

e) to establish criteria for privatizations initiated prior to the organization of the funds;

f) to approve the signing of contracts for specialized assistance with foreign consulting firms;

g) to approve the sales of shares of commercial companies initiated prior to the organization of the funds;

h) to propose for government approval the methodological norms on conditions for organizing and conducting sales of shares and assets;

i) to provide specialized assistance to commercial companies involved in the privatization process;

j) to monitor the legality of juridical documents signed in the application of this law;

k) to periodically publish an information bulletin;

l) to carry out any other tasks stipulated by law.

In order to execute the tasks assigned to it, the National Agency for Privatization has the right to request data and information from central and local organs of public administration, as well as from commercial companies.

Central and local organs of public administration, as well as commercial companies, are required to respond to the requests of the National Agency for Privatization within 20 days.

## CHAPTER IX. Penalties

**Article 65**

The following acts are considered to be violations of the norms on privatization if they are not committed in such conditions that they constitute infractions according to the penal law:

a) transfer of certificates of ownership among living persons, in violation of the provisions of Article 22;

b) sale or transfer by individuals or legal persons, Romanian or foreign, of the rights to assets sold by commercial companies before the end of the one-year period from the date of the signing of the sale and purchase contract;

c) signing specialized assistance contracts with foreign firms for the purpose of carrying out privatizations prior to the organization of the funds without the approval of the National Agency for Privatization;

d) divulging, by employees of the National Agency for Privatization or of commercial companies, as well as by any other persons involved in the privatization process, of any information which is not for publication, information dealing with the sale of shares or assets of commercial companies.

**Article 66**

The contraventions listed in Article 65 of the present law are subject to the following penalties:

a) a fine of from 50,000 to 100,000 lei for the contraventions mentioned in letters a), b), and c);

b) a fine of from 150,000 to 200,000 lei for the contravention mentioned in letter d).

The penalty can also be applied to legal persons.

**Article 67**

The determining of contraventions and the application of penalties are carried out by the authorized personnel of the National Agency for Privatization and the organs of financial control.

**Article 68**

The provisions of Law No. 32/1968 on determining and penalizing contraventions apply in the case of the contraventions stipulated by the present law.

**CHAPTER X. Final Provisions**

**Article 69**

Members of the boards of directors of the Private Ownership Funds and the State Ownership Fund, their employees, as well as those of the National Agency for Privatization, as well as members of the government, officials, and members of Parliament involved in the implementation of this law, are required to declare their wealth at the beginning and the end of their term of service or employment.

**Article 70**

Under the conditions stipulated by law, the Private Ownership Funds and the State Ownership Fund can establish commercial companies which will have as the object of their activity the promotion or acceleration of the economic restructuring and privatization processes.

**Article 71**

The Private Ownership Funds and the State Ownership Fund have the right to contract with individuals or legal persons, Romanian or foreign, for specialized assistance services in the fields of privatization and economic rstructuring.

**Article 72**

Under conditions specified by the present law, foreign individuals or legal persons can participate in the purchasing of shares or assets of commercial companies without being required to register in advance with the Romanian Agency for Development.

In the situation in which foreign individuals or legal persons purchase shares or assets of commercial companies in accordance with the present law, the Romanian Agency for Development is required to issue the investor's certificate stipulated in Article 24 of Law No. 35/1991.

**Article 73**

Within six months of the date that the present law goes into effect, the government will submit the draft law on the organization and operation of the stock exchange.

**Article 74**

The provisions of the present law also apply to the sale of shares in commercial companies with limited liability.

**Article 75**

The social capital of the commercial companies coming from shares issued under the conditions stipulated by Article 36 of Law No. 18/1991 on the land supply is excluded from the capital submitted for distribution to the Private Ownership Funds and the State Ownership Fund.

**Article 76**

In the present law, the phrase "members of the management of commercial companies" means the representatives of the Private Ownership Funds and the State Ownership Fund in the general meetings of shareholders, the members of the boards of directors, and the members of management committees or similar bodies.

**Article 77**

Compensation for property confiscated by the state in an abusive manner will be settled by a special law.

**Article 78**

The offices of the Private Ownership Funds will be distributed in the country in accordance with the criteria for placing commercial companies in each fund.

**Article 79**

As of the date that the present law goes into effect, Article 23, paragraphs 2-8 of Law No. 15/1990 on the reorganization of state economic units as autonomous administrations and commercial companies, and any other conflicting provisions, are abrogated.

This law was adopted by the Senate in its session of 31 July 1991.

For the President of the Senate
Vasile Mois

This law was adopted by the Assembly of Deputies in its session of 31 July 1991.

For the Chairman of the Assembly of Deputies
Ionel Roman

On the basis of Article 82, letter m) of Decree-Law No. 92/1990 on the election of the Parliament and of the president of Romania, we promulgate the Law on the Privatization of Commercial Companies and order its publication in MONITORUL OFICIAL.

The President of Romania, Ion Iliescu
Bucharest, 14 August 1991

## Decision on Ministry of Public Works

*91BA1172A Bucharest MONITORUL OFICIAL in Romanian 26 Aug 91 pp 2-3*

["Text" of Decision on the Organization and Operation of the Ministry of Public Works and Territorial Planning]

[Text] The Romanian Government hereby decides:

### Section I. General Provisions

**Article 1**

The Ministry of Public Works and Territorial Planning is the central organ of the executive authority that performs public administration in the fields of construction, public works, town planning and territorial planning.

**Article 2**

The Ministry of Public Works and Territorial Planning functions as the organ for direction and control of its fields of activity.

**Article 3**

The Ministry of Public Works and Territorial Planning collaborates with the other ministries, the other central organs, and the local organs of public administration as well. It has the right to requisition their documentation, reports and data essential to performance of its functions.

### Section II. Functions

**Article 4**

The Ministry of Public Works and Territorial Planning has the following functions in common with the other ministries:

a) It takes measures to apply the laws and decisions with observance of the limits of its authority and the principle of autonomy of the economic agents and the local institutions and organs of public administration.

b) It enforces government policy in its fields of activity.

c) It analyzes the development of the phenomena peculiar to its activity in correlation with worldwide trends in order to harmonize the developmental factors in terms of the legal state and the market economy.

d) It organizes and implements activity wherein the state functions as a shareholder in the trading companies with state capital, in the economic fields under its jurisdiction, and it provides for the appointment of its representatives to the councils of the state commissioners.

e) It helps to accelerate privatizing in the economic fields under its jurisdiction through support of the policy of selling state-held shares and of increasing the trading companies' capital with state capital, through the contributions of private investors and through leasing and concession operations as well.

f) It applies the policy of government subsidies in its fields of activity.

g) It initiates or formulates or, as the case may be, reviews draft regulatory acts (laws and decisions).

h) It initiates and negotiates, by the government's authorization, the conclusion of conventions, accords and other international agreements or proposes its adherence to the existing ones.

i) It checks and controls application of the legal provisions, including international conventions and accords, according to the nature of its activity, and it takes measures to prevent and eliminate any violation of them.

j) It collaborates with the specialized organizations and institutions in order to train and improve the occupational training of personnel in its fields of activity.

k) It guides efforts toward international cooperation and supports development of the forms of governmental and nongovernmental cooperation according to the nature of its activity.

l) I takes measures to develop scientific research on its activity and to interest the economic agents in prompt application of the results to practical activity.

m) It coordinates the activity of the budgetary units under it.

n) It provides for uniform application of the elements of the wage system for the units under it.

o) It represents the state's interests in various international organs and bodies in conformity with the accords and other agreements for that purpose, and it develops cooperative relations with similar organs and organizations in other states and with international organizations with an interest in its activity.

p) It initiates the necessary measures for environmental protection in its field of activity.

q) It performs any other legally assigned functions.

**Article 5**

The Ministry of Public Works and Territorial Planning performs the following particular functions:

a) It manages the funds allocated out of the state budget for public works and construction of social housing.

b) It provides for coordination of the geographic allocation of humane activities.

c) It determines measures to protect areas of historical and architectural value and to integrate them in the efforts to modernize the localities.

d) It exercises state control over construction, public works, town planning and territorial planning.

e) It coordinates the efforts to substantiate and compile studies and programs to develop and improve the

public works reserve. It reviews the suitability and necessity of operations in this field, which are financed out of the state budget.

f) It compiles studies concerning urban and rural development and construction of housing and technical-municipal facilities.

g) It provides technical guidance in construction, public works, town planning and territorial organization by coordinating preparation and approval of technical regulations.

h) It drafts standards for investment and town-planning activity.

i) It coordinates the programs of the prefectures concerning planning and development of the localities and improvement of their structures, communal administrations, housing administrations, and local transportation.

j) It makes the municipal survey of real property, prepares and implements the general framework for organization and planning of the territory as a whole and those of the localities, and collaborates with the coordinator of the general survey provided by law.

k) It coordinates preparation of the national program for protection from earthquakes, including the program to educate the public on behavior in case of earthquakes, and it helps to apply them.

l) It collaborates with the Ministry of Education and Science in order to organize, manage, guide, and coordinate activity in the network of units for instruction in construction, public works, town planning and territorial planning.

### Section III. Organization and Operation

**Article 6**

1. The Department of Construction and Public Works, the Department for Town Planning and Territorial Planning and the State Inspectorate for Construction, Public Works, Town Planning and Territorial Planning are organized and operate under the Ministry of Public Works and Territorial Planning.

2. The State Inspectorate for Construction, Public Works, Town Planning and Territorial Planning is organized via the State Inspectorate for Quality of Constructions and Related Property, under the National Committee on Standards, Metrology and Quality, under the Ministry of Public Works and Territorial Planning.

3. The organizational structure of the Ministry of Public Works and Territorial Planning is specified in the Annex*.

4. The general directorates, directorates, services, offices, and bureaus are organized under the divisions in the organizational structure of the Ministry of Public Works and Territorial Planning, by order of the minister.

5. The functions of the divisions in the structure of the Ministry are approved by the minister.

6. The list of functions is approved by the Ministry of Labor and Social Security and the Ministry of the Economy and Finances, on the recommendation of the Ministry of Public Works and Territorial Planning.

**Article 7**

1. The maximum number of positions in the Ministry of Public Works and Territorial Planning is 546, excluding high officials.

2. Within the approved maximum number of positions for the whole Ministry, the minister of Public Works and Territorial Planning approves the number of positions for his own staff, the departments, and the inspectorate.

3. The maximum number of managerial positions is 20 percent of the total number of personnel.

**Article 8**

1. The Ministry of Public Works and Territorial Planning is managed by the minister and the Ministry board.

2. The minister manages all activity of the Ministry and represents it in its relations with the government, with the other ministries, with other state organs and organizations in Romania, and with similar bodies in other countries as well.

In applying the legal provisions, the minister issues orders and instructions.

3. The Ministry board is the minister's consultative organ.

**Article 9**

1. A department is managed by a secretary of state and department head aided by an undersecretary of state.

2. A state inspectorate is managed by a secretary of state aided by an undersecretary of state.

**Article 10**

1. The Department of Construction and Public Works has under it the Research Institute for Construction and Construction Management and the Office of Documentation for Construction, Architecture and Town Planning.

2. The Department for Town Planning and Territorial Planning has under it the Urban Project Research and Design Institute.

3. The State Inspectorate for Construction, Public Works, Town Planning and Territorial Planning has under it the regional inspectorates for construction, public works, town planning and territorial planning.

The regional inspectorates are public institutions financed entirely out of extrabudgetary incomes.

4. Founding and cancelling of the units with extrabudgetary financing under the Ministry of Public Works and Territorial Planning, and their objects of activity, organization structures, and numbers of positions are approved by the minister of Public Works and Territorial Planning.

**Section IV. Final Provisions**

**Article 11**

The Ministry of the Economy and Finances will make the appropriate changes in applying the present decision in the financial indicators for 1991 that have been approved by the Ministry of Public Works and Territorial Planning and the National Committee on Standards, Metrology, and Quality.

**Article 12**

Personnel acquired in the reorganization of the Ministry are considered transferred in the interest of the service. If they are placed in functions with lower wage levels or dismissed due to application of the present decision, they benefit from the base pay they had, and seniority increases, as the case may be, for three months after the present decision goes into effect.

**Article 13**

As of the date the present decision goes into effect, any provisions to the contrary are abrogated.

Prime Minister, Petre Roman
Bucharest, 26 July 1991
No. 522

* The Annex is transmitted to the parties concerned.

## Decision for Setting Retail Prices of Medicines

*91BA1172B Bucharest MONITORUL OFICIAL in Romanian 26 Aug 91 pp 8-9*

["Text" of Decision No. 541 on setting retail prices for medicines for human use]

[Text] The Romanian Government hereby decides:

**Article 1**

Wholesale prices for packaged medicines for human use in Romania are set and adjusted according to the legal provisions by the producers through negotiation with the Ministry of Health.

**Article 2**

Wholesale prices for imported medicines for human use are set and adjusted by the Ministry of Health according to their therapeutic value through negotiation with the economic agents involved in import activities.

**Article 3**

The differences between the wholesale prices set according to the provisions of Article 2 of the present decision for imported medicines and those resulting from conversion to lei of the foreign prices in foreign exchange, at the rate of exchange and on terms of free freight to the Romanian border, plus the customs duties, the tax on circulation of goods, and the export-import company's commission, are reflected in the balance of the trading companies with state capital and export-import activities.

**Article 4**

The retail prices for the existing items in circulation on the date of the present decision are based on the negotiated wholesale prices in effect on 30 June 1991, plus the declared trade markup, which cannot exceed the quota of 33 percent, on the delivery terms in effect as of the date of the present decision.

**Article 5**

The retail prices for new packaged varieties of medicines for human use are based on the wholesale prices negotiated according to Articles 1 and 2 and the declared trade markup, within the limit of the quota specified in Article 4 of the present decision.

**Article 6**

The retail prices will be set according to therapeutic units, rounded off to the small coinage in circulation.

The differences resulting from rounding off the retail prices per therapeutic unit and according to small coins are reflected in the wholesale prices, through their commensurate modification on the basis of negotiation with the supplier.

**Article 7**

The retail prices for pharmaceutical substances, medicinal teas, stomatological and hematological products, serums, vaccines, biological products for diagnosis and therapy, technical-medical and other products that are the objects of pharmaceutical trading companies' activities, other than those specified in Articles 4 and 5 of the present decision, are based on the wholesale prices negotiated by them with the producers and the declared maximum trade markup, according to the legal provisions in force.

The declared trade markups will be within the limits of the quotas and on the delivery terms in force as of 30 June 1991, which constitute the maximum limits.

**Article 8**

The pharmaceutical trading companies with state capital negotiate the wholesale prices with the economic agents in the private and cooperative sectors for products

procured for resale, within the limits of the prices negotiated for the same products with the suppliers in the state sector.

For products whose prices are not agreed upon for the state sector, their prices are negotiated with the suppliers in the private and cooperative sectors within the limits of the prices previously proportioned by the Ministry of Health or the pharmaceutical trading companies, in accordance with their legal functions.

**Article 9**

The entry "Medicines for Human Use" in Annex No. 1 to Government Decision No. 1154 of 1990 is hereby abrogated as of the date of the present decision.

**Article 10**

Violation of the provisions of the present decision is sanctioned according to Law No. 12 of 1990 (amended), Article 7, Paragraph d and Article 7, final paragraph, of Government Decision No. 211 of 1991, unless the action is a criminal offense.

Prime Minister, Petre Roman
Bucharest, 1 August 1991
No. 540

## Decision on Fees on Domestic, Imported Medicines

*91BA1172C Bucharest MONITORUL OFICIAL in Romanian 26 Aug 91 p 9*

["Text" of Decision on Setting and Applying Registration Fees for Medicines and Biological Products for Human Use]

[Text]

**Article 1**

Manufacture and circulation of medicines and biological products for human use, as well as circulation of the products abroad, are permitted solely on the basis of the approval of the Ministry of Health, granted by issuing a registration certificate.

**Article 2**

Application of legal persons and individuals, Romanian or foreign, for the registration certificate for medicines and biological products for human use are subject to the following fees:

a. For medicinal and radiopharmaceutical products made in Romania, 3,000 lei;

b. For biological products for human use and phytotherapic, apitherapic, stomatological and homeopathic products made in Romania, 2,000 lei;

c. For medicinal products, biological products for human use, and radiopharmaceutical products made abroad, $500;

d. For phytotherapic, apitherapic, stomatological and homeopathic products made abroad, $300.

The fees specified in the above paragraph are incomes of the state administration's budget.

**Article 3**

The Ministry of Health will set the charges, in lei and in foreign exchange, for the services rendered in compiling and verifying the necessary documentation for issuing the registration certificate.

The charges for the services specified in the above paragraph are collected by the Petre Ionescu-Stoian Institute for State Control of Medicine and Pharmaceutical Research except for biological products for human use, the charges for which are collected by the Section for State Control of Serums and Vaccines. The sums obtained will be used in supplementing the allocated budgetary credits.

**Article 4**

Registration fees are not charged for medicines or biological products for human use coming from countries that do not charge registration fees or other equivalent duties for medicines or biological products for human use produced in Romania.

These provisions will be applied if, according to the legal provisions or those of international agreements to which Romania is a party, registration of medicines and biological products for human use is not subject to fees.

**Article 5**

Provisions contrary to this decision are not applied.

Prime Minister, Petre Roman
Bucharest, 1 August 1991
No. 541

## Department for Labor Force, Unemployment Set Up

*91BA1170A Bucharest MONITORUL OFICIAL in Romanian 20 Aug 91 p 4*

["Text" of government decision issued in Bucharest on 26 July on organization of Department for Labor Force and Unemployment at the Ministry of Labor and Social Protection]

[Text]

**The Government of Romania decrees:**

**Article 1**

A Department for Labor Force and Unemployment will be set up within the organizational structure of the Ministry of Labor and Social Protection.

**Article 2**

(1) In addition to duties in the area of labor force envisaged in Government Decision No. 962/11 of August 1990 concerning the organization and operation of the Ministry of Labor and Social Protection, the Department for the Labor Force and Unemployment will also discharge the following major duties:

—Pursue the social and professional reintegration of the unemployed;

—Supervise the formation of the unemployment relief fund and the establishment and payment of unemployment relief;

—Organize and ensure training and retraining for the unemployed and manage the funds allocated for covering the expenditures involved in the operation and endowment of this activity;

—Guide and supervise the activities of unemployment offices and placement agencies;

—Organize classes for the unemployed in the areas of economic, legal, marketing, and management education, with a view to promoting free enterprise eactivities;

—Organize the management of vacant jobs;

—Organize foreign cooperation in the area of labor markets.

(2) Ten positions will be added to the current number of slots in the apparatus of the Ministry of Labor and Social Protection established under Government Decisions No. 962/1990, 1161/1990, and 195/1991.

**Article 3**

The Department for Labor Force and Unemployment will be headed by a state secretary.

**Article 4**

Annex No. 1 to Government Decision No. 962/1990 regarding the organizational structure of the Ministry of Labor and Social Protection will be replaced by the Annex to the present decision which will be communicated to the units concerned.

**Article 5**

The personnel outlays incurred in the 10 additional positions will be covered from the budget resources allocated to the Ministry of Labor and Social Protection for 1991.

Prime Minister, Petre Roman
Bucharest, 26 July 1991
No. 506

## Decree on Indexing of Wages, Pensions

*91BA1171A Bucharest MONITORUL OFICIAL in Romanian 2 Sep 91 pp 2-4*

["Text" of government decision issued in Bucharest on 27 August on indexing of wages and pensions and other social protection measures]

[Text] Romanian Government Decision on Indexing Salaries, State Social Security Pensions, Military Pensions, and Pensions for War Invalids, Orphans, and Widows, and Other Social Protection Measures.

**The Romanian Government decrees:**

**CHAPTER I. General Provisions**

**Article 1**

Wages, unemployment relief, state social security pensions, military pensions, pensions for IOVR [war invalids, orphans, and widows] including survivors, allowances and increases for war invalids, veterans, and widows, state allowances for children, student scholarships, social aid envisaged by law, and allowances for wives of conscripted military men will be indexed at the beginning of each quarter by a coefficient separately calculated for each category of recipients and representing on the average 40 percent of the forecast increases in consumer prices.

**Article 2**

(1) The average 40 percent of the consumer price increase determined in accordance with Article 1 will be differentiated according to categories of recipients, as follows:

—37 percent for wage-earners;

—45 percent for state social security, military, and IOVR pensioners and their survivors, and for war invalids, veterans, and widows;

—75 percent for recipients of social relief, allowances for wives of conscripted military men, and state allowances for children;

(2) Food allowances for collective consumption in state social units will be indexed in full in keeping with food price increases.

**Article 3**

(1) In order to ensure revenue indexing, the Ministry of Economy and Finance and the Ministry of Labor and Social Protection will establish indexing coefficients in accordance with the percentages envisaged under Article 2.

(2) The communique on the indexing coefficients will be published in the MONITORUL OFICIAL by the 20th of the last month of each quarter.

(3) Incomes will not be indexed when the forecast quarterly price index rises less than 10 percent; the increase in question will be absorbed in the indexing coefficients calculated for the following quarter.

## CHAPTER II. Wage Indexing

### Article 4

(1) The nation-wide minimum base gross wage will be indexed by 37 percent of the consumer prices increase.

(2) The payroll of commercial firms and autonomous administrations equivalent to the basic wages established under individual work contracts will be indexed up to the level of the indexing coefficient established under Article 3, in keeping with the financial resources available, without thereby raising wholesale and retail prices or service tariffs.

(3) Management councils will determine the level of the indexing coefficient in keeping with the financial resources available, by the beginning of the quarter, and will inform the employees about it.

(4) The management councils, together with representatives of the employees, may establish differentiated indexing coefficients for individual base pays, provided that the average indexing coefficient does not exceed that of the increase of the base payroll.

### Article 5

(1) The payroll of units financed from the state central administration budget and local budgets will be indexed by the coefficient determined under Article 3. Individual wages will be indexed by the same coefficient.

(2) The provisions of paragraph (1) will be duly applied to special autonomous administrations where wages were approved by government decisions.

(3) The new wage levels for units financed from the state central and local administration budgets and for special autonomous administrations will be calculated and communicated to them by the Ministry of Labor and Social Protection.

### Article 6

Other wage rights will be calculated in accordance with the new base pay levels indexed in accordance with the provisions of Article 4, item (4) and Article 5.

### Article 7

(1) Unemployment relief will be indexed by indexing the net wage serving as the basis for calculating the unemployment relief.

(2) In the case of employees who became unemployed before the pay indexing, the unemployment relief for the period following that date will be recalculated accordingly.

### Article 8

The rights of persons who on and after the date of the indexing were temporarily incapacitated, were on leave for the purpose of caring for a sick child or for caring for a child under one year of age, or in some other situation in which their rights are legally determined on the basis of the base pay, will be further determined in accordance with the new base pay level.

### Article 9

(1) The amounts representing price increase indexing will be incorporated in the base pay only at the place where a person is permanently employed or, in the case of pensioners, only in the pension.

(2) The base pay of persons cumultively employed by public institutions financed from the state central or local administration budgets is envisaged in the legal regulations concerning the personnel wages in such institutions and does not include the amounts representing indexing and compensations for price increases awarded on the basis of Government Decision No. 219/1991 and of the present decision.

(3) The same rule will be used to determine the pay on the basis of which hospital allowances are calculated for medical or pharmaceutical personnel, in addition to salaries received for teaching; the amounts established for work paid by the hour; or for duty shifts designed to provide continual medical services.

### Article 10

(1) The provisions of Article 4, items (2)-(4) apply only to employees of places of employment where wages are determined by collective negotiations according to Law No. 14/1991, for which they have collective work contracts registered with labor and social protection directorates.

(2) At places of employment where negotiations are still underway, the wages envisaged in the preceding paragraph will be indexed as of the first of the following month after the registration of the collective work contract.

### Article 11

The Ministry of Economy and Finance and the Ministry of Labor and Social Protection will monitor compliance by economic firms with the provisions of the present decision concerning the indexing of employees' incomes.

**Article 12**

Employees who are dissatisfied with the manner in which wages and other salary rights were set in the wake of the indexing may appeal to the competent court.

**CHAPTER III. Indexing State Social Security, Military, and IOVR Pensions and Other Revenues and Increases**

**Article 13**

(1) State social security, military, and IOVR pensions and the allowances and increases awarded to war invalids, veterans, and widows will be indexed individually by the coefficient established under Article 3.

(2) Allowances for caring for invalids classified under state social security grade I of incapacitation and for military men will be indexed by the same coefficient as the other state social security, military, and IOVR pensions.

(3) The rights envisaged under Government Decision No. 219/1991 and the present decision for state social security pensioners will also be awarded to the recipients of monthly cash relief established in accordance with Article 14 of Law No. 23/1969.

**Article 14**

State allowances for children; social allowances awarded on the basis of the pension legislation; the quarterly cash relief awarded in keeping with Decree-Law No. 70/1990; and allowances for the wives of conscripted military men will be indexed according to Article 3 for those categories of recipients.

**Article 15**

The Ministry of Labor and Social Protection will take all the necessary measures to ensure the indexing and on-schedule payment of state social security and IOVR pensions, allowances, increases, and social relief.

**Article 16**

On 1 September 1991 the level of certain allowances and aid will be increased by the following fixed amounts:

a) By 600 lei for occasional relief awarded in keeping with HCM [Council of Ministers Decision] No. 454/1957;

b) By 350 lei a month for maintenance allowances for minors placed in the care of their own family or in foster homes;

c) By 500 ley for allowances awarded by law in case of death.

**Article 17**

Social protection for drugs utilized in ambulatory treatment will continue to be ensured in accordance with the regulations envisaged in Government Decision No. 219/1991 concerning the indexing of and compensations for salaries and state social security, military, and IOVR pensions and other social protection measures.

**Article 18**

The cost of hot meals and food allowances awarded in keeping with the regulations in effect to employees in certain autonomous managements and commercial enterprises with majority state capital, which are financed from the production expenditures negotiated at the signing of collective work contracts, will be increased within the limits of the forecasted quarterly index of increase for food products.

**CHAPTER IV. Temporary and Final Provisions**

**Article 19**

The Ministry of Education and Science and the Ministry of Economy and Finance will take measures to recalculate the level of student scholarships in accordance with the indexed food allowances.

**Article 20**

(1) As of 1 September 1991 the amounts resulting from the indexing will be included in the rights to which they apply, thus providing the new levels for salaries, pensions, escort allowances, allowances and increases awarded to war invalids, veterans, and widows, state allowances for children, social relief, and allowances for wives of conscripted military men.

(2) As of 1 September 1991 the maximum base pay ceilings envisaged in Annex No. 1 to Government Decision No. 127/1991, as modified under Government Decision No. 219/1991, will be increased by the wage indexing coefficient set according to Article 3 of the present decision.

(3) The amounts resulting from indexing according to the present decision; those representing indexing and compensations as per Government Decision No. 219/1991; and the amounts obtained by increasing pensions in keeping with Government Decision No. 526/1991 will not be included in the calculation of the incomes that serve as basis for establishing rent for state housing, state allowances for children, contributions paid out by persons legally responsible for persons committed to social institutions, quarterly and occasional cash allowances, aid awarded to wage-earners and pensioners for the purchase of prostheses and dentures, and meals at social relief kitchens.

(4) The amounts resulting from indexing in accordance with the present decision and those awarded under Government Decision No. 219/1991 will not be taken into consideration for the purpose of establishing the incomes that serve as basis, according to Government Decision No. 360/1991, for establishing parents' contributions for children's nursery and kindergarden expenses.

**Article 21**

(1) The amounts resulting from indexing will be financed from the same funds as the indexed rights.

(2) The state social security budget deficit resulting from the implementation of the present decision will be covered from the state central administration budget.

**Article 22**

The Ministry of Economy and Finance and the Ministry of Labor and Social Protection will report quarterly to the government on the impact of the implementation of the present decision on the state central administration budget, on local budgets, and on the state social security budget, with a view to submitting them for Parliament approval.

**Article 23**

The Ministry of Labor and Social Protection and the Ministry of Economy and Finance will issue specifications concerning the determination and payment of the rights due in the wake of the implementation of the present decision.

**Article 24**

By the 15th of each month the National Commission for Statistics will issue the monthly and quarterly consumer price increase indexes.

**Article 25**

Enterprises with majority state capital, cooperative and civic enterprises, and insurance systems—other than state security—are advised to implement the social protection measures envisaged in the present decision.

**Article 26**

In keeping with the law, noncompliance with the provisions of the present decision will incur disciplinary, financial, or penal action according to case.

**Article 27**

The indexing of incomes envisaged under Article 1 of the present decision will begin on 1 September 1991 on the basis of the forecasted average price increase compared to the second quarter of 1991.

Prime Minister, Petre Roman
Bucharest, 27 August 1991
No. 579

## Decree on Quality Control Measures

*91BA1173A Bucharest MONITORUL OFICIAL in Romanian 2 Sep 91 pp 27-29*

["Text" of government decision issued in Bucharest on 2 August on monitoring the quality of products and services to prevent and combat actions affecting the life or health of people and animals, or the quality of the environment]

[Text]

**The Romanian Government decrees:**

**Article 1**

All economic agents are fully responsible for the quality of the products delivered or marketed and of the services offered.

Only products and services that do not affect the life and health of people and animals or the quality of the environment may be offered for sale.

**Article 2**

To protect the consumers and users, the producers, sellers, importers, and service providers are obligated to:

a) Stop deliveries of or recall from the market or from users any product that after being sold was found to have defects that may affect the life or health of people and animals or the quality of the environment;

b) Accompany every product delivery by a "Declaration of Compliance" and an "Analysis Bulletin" or "Test Bulletin," as the case may be, by which the producer confirms that the product meets the quality standard guaranteed; in the case of imported goods, the importers are responsible for verifying the certification of the products and services from the country of origin and label contents. Compliance with quality conditions will be verified by having the products tested in the country or abroad at laboratories accredited or authorized by the national body of certification, or on the basis of mutual recognition agreements with similar bodies in the respective countries;

c) Utilize for the purpose of verifying, testing, and certifying the quality of products and services only authorized and accredited laboratories and precision means of measurement, metrologically standardized and verified in accordance with the law;

d) Immediately stop marketing products that were found to deviate from the declared or guaranteed technical-quality specifications, and implement the measures established by the notifying bodies for the producers, sellers, or importers, as the case may be.

**Article 3**

The supervision of the quality of products and services designed to prevent harm to the life or health of people

and animals or to the quality of the environment will be carried out by specially appointed experts of the State Quality Bureau of the National Commission for Standards, Metrology, and Quality and other legally established experts, who will carry out periodical, unannounced inspections at sites where products are manufactured, marketed, tested, conserved, packaged, shipped, stored, installed, or utilized, or where services are offered.

**Article 4**

The State Quality Bureau will draft, within 60 days, procedures establishing the criteria for quality control; for preempting and combating actions apt to affect the life or health of people and animals or the quality of the environment; for repressing fraud and falsification regarding the quality of products and services; for obtaining and sealing product samples that are to be shipped for analysis, verification, and testing at laboratories accredited or authorized by the State Quality Bureau, and for drafting findings reports.

**Article 5**

When deviations from the quality specifications declared or guaranteed by the producer or service provider are found that may affect the life or health of people or animals or the quality of the environment, the body responsible for the findings will stop sales, ensure separate storage, and examine the causes of the deviations noted and will take measures to remedy them and, if warranted, to stop production.

In the case of imported products which were found to have quality deficiencies, sales will be stopped and the importer will be informed with a view to having the deficiencies remedied or, if warranted, stopping deliveries.

**Article 6**

In the case of toys, implements, or manual or electrical tools, as well as all electrical engineering and electronic consumer items, any defect that carries a threat to the user's safety is viewed as very serious and the supervision body will immediately ban its sale and have it stored separately, and will ensure that the items in question are held until the competent authorities have made a decision on how the problem is to be resolved.

**Article 7**

The notifying authority that finds falsified, altered, or banned products on the market, health-damaging products, or falsifications or fraud concerning product or service quality will order the marketing of the respective products stopped and is obligated to immediately notify the prosecutor or the body of penal investigation; the authority will also ensure that the consequences of the violation, the material evidence, and any other proof do not vanish. The notifying authority will proceed in the same manner in the case of the products envisaged under Articles 5 and 6.

**Article 8**

To protect the consumers, the quality supervision authorities are entitled to enter the premises where goods and services are produced, stored, shipped, or sold if it has been found that the products or services in question affect the life or health of people or animals or the quality of the environment.

The economic agents must report to the quality supervision authorities any known case in which the lives or health of people or animals or the quality of the environment was affected, as well as any case where damage to them is imminent.

**Article 9**

The cost of the samples or models seized within the framework of quality control activities will be borne by the producer, seller, importer, or service provider, as the case may be.

The cost of product and service testing and verification by accredited or authorized laboratories will be funded from the budget of the National Commission for Standards, Metrology, and Quality if the results are satisfactory, and by the responsible economic agent if they are unsatisfactory.

**Article 10**

The authorities in charge of quality control of products and services will cooperate with consumer protection associations with a view to preventing and identifying cases of fraud or falsification of product and service quality and will report to the public any deviations found through the mass media.

**Article 11**

The personnel empowered to carry out quality control will be responsible for keeping professional secrets regarding the technical-economic and commercial aspects learned in the course of discharging their duties.

**Article 12**

The producers, importers, sellers, and service providers will be held responsible for any deficiency in the quality of products or services if it was of their doing, if it appeared during the warranty or validity period, and if it affects the life and health of people or animals or the quality of the environment.

**Article 13**

The producers, importers, and sellers are also responsible for products delivered free of charge, on discount, rented, or distributed in any other form, if they present

deviations from the quality specifications declared or guaranteed. The same responsibility is incumbent on service providers.

**Article 14**

Upon selling an item the seller is obligated to apprise the buyer of the terms of warranty, validity, or duration of utilization and of the main quality specifications of the product, and to possibly test it to make sure that it is in working order.

**Article 15**

The producers, importers, and sellers are forbidden to deliver or sell goods that do not carry identifying information on the item, label, or packaging, such as: producer's trade mark, name of product, main quality specifications of reference, date of fabrication, and warranty terms—in compliance with technical documentations and legal regulations.

**Article 16**

The producers will mark only real results obtained by their own laboratories in the analysis and test bulletins, and service providers will provide the required documents confirming the quality of the services given.

**Article 17**

Durable goods will be sold accompanied by a "Certificate of Warranty," "Technical Book," or as the case may be, "User's Manual," written in Romanian at a level understandable by the layman, which will include the main specifications of the product, terms of installation, use, and maintenance, date of fabrication, warranty period, and possible risks incurred by failure to observe those instructions.

**Article 18**

The implementation of the provisions of the present decision will be monitored by the bodies of the State Quality Bureau of the National Commission for Standards, Metrology, and Quality in cooperation with the other competent authorities envisaged by the law.

**Article 19**

Unless viewed as infractions, the following acts will be considered infringements and will be punished by fines of:

a) 5,000-10,000 lei for the cases listed under Article 2, items b) and c), and under Articles 13, and 14;

b) 1,000-5,000 lei for the cases listed under Articles 15 and 17.

**Article 20**

The infringements envisaged under Article 19 will be notified and the sanctions will be enforced by the personnel in charge of control duties at the State Quality Bureau and by the regional bodies of the National Commission for Standards, Metrology, and Quaity, as well as other competent persons, in accordance with the law.

**Article 21**

Complaints against reports concerning infringements and sanctions will be filed and resolved in accordance with the provisions of Law No. 32/1969.

**Article 22**

The bodies of the Interior Ministry and the Financial Guards will help the authorities in charge of product and service quality control in the exercise of their duties, upon the latter's request.

**Article 23**

Any provisions to the contrary will be abrogated on the date on which the present decision comes into effect.

Prime Minister, Petre Roman
Bucharest, 2 August 1991
No. 545

## Resolution Sets Wages for Clergy

*91BA1170B Bucharest MONITORUL OFICIAL in Romanian 21 Aug 91 pp 3-4*

["Text" of government decision issued in Bucharest on 26 July on wages for personnel of religious establishments]

[Text]

**The Romanian Government decrees:**

**Article 1**

We recommend that the wages of clergy and religious establishment workers, as well as of personnel employed in specific positions in religious administration be set by the leaderships of the religious denominations in accordance with the provisions contained in the annexes to Government Decision No. 307/1991 and in compliance with the statutory provisions, and be approved by the State Secretariat for Religious Affairs.

We recommend that the wages of persons who are not members of the clergy be set in accordance with the annexes to Government Decision No. 307/1991.

**Article 2**

The funds required to payroll the personnel cited in Article 1 will be provided from the denominations' own resources plus a contribution from the state central administration. The maximum contribution that may be awarded by the state for each position is envisaged in the annex and will be allocated by the State Secretariat for

Religious Affairs within the scope of the funds approved for this purpose in the state central administration budget.

The level of the contribution envisaged in the annex for each position will be indexed by the same salary increase index as that ensured for public service personnel, beginning with the third quarter of 1991.

**Article 3**

The volume of budget allocations envisaged for 1991 for the State Secretariat for Religious Affairs will be increased by 105 million lei and will be funded from the government's budget reserves.

**Article 4**

The Ministry of Economy and Finance will introduce the respective modification in the 1991 budget of the central state administration.

**Article 5**

The present decision will come into force on 1 April 1991, at which date no other dispositions to the contrary will remain in effect.

Prime Minister, Petre Roman
Bucharest, 26 July 1991
No. 512

**Annex**

**Maximum Contributions From the Central State Administration Budget Toward the Wages of Personnel in Religious Establishments and Theological Schools**

| Name of Position | Maximum Monthly Contribution (in lei) |
|---|---|
| Patriarch | 8,000 |
| Chief rabbi, mufti, union chairman, first delegate denomination center, metropolitan bishop, archbishop | 7,500 |
| Bishop, denomination head administrator, patriarchate bishop-vicar | 6,800 |
| Bishop-vicar, auxiliary bishop | 6,000 |
| Vicar, union deputy chairman, delegate, vicar of an independent vicarage | 5,500 |
| Administrative vicar, general vicar, secretary general | 5,000 |
| Counselor, general provicar (1-4 positions for each denomination center) | 4,400 |
| Protopope, dean, abbot, rabbi, and the equivalent | 2,000 |
| Priest, imam, ritual slaughterer, pastor, announcer (one position for each parish) | 1,800 |
| Singer, cantor, organist, harmonium player; [Jewish] teacher, administrator, supervisor (one position for each parish or equivalent congregation) | 1,200 |
| Head of the financial accounting department of the central denomination office (chief accountant, head of office or service) | 3,000 |
| Head of the financial accounting department of a protopope district and similar congregations, abbeys | 2,000 |
| Museum curator, archivist, conservation expert, restorer, manager-custodian, museum supervisor, librarian (1-4 positions for each center, storage facility, or collection of religious objects and books belonging to the national heritage and managed by a denomination) | 2,500 |
| Secretary (acting head of a monastery, protopope district, or similar congregation) | 1,800 |
| Theological Schools | |
| University professor, lecturer | 5,000 |
| University lecturer (project chief), university assistant, tutor, seminar professor, high school teacher, academy teacher | 4,000 |
| Head of financial accounting department, librarian, chief secretary, education director at student dormitories | 3,000 |
| Educator, dormitory administrator, canteen manager | 2,000 |

Note: Once a year, simultaneously with recommendations for the funds that are to be incorporated in the central state administration budget, guidelines should also be presented for approval for how the state contribution will be disbursed to the various denominations through the State Secretariat for Religious Affairs.

## Decree on Transylvanian Studies Center

*91BA1170C Bucharest MONITORUL OFICIAL in Romanian 2 Sep 91 pp 30-31*

["Text" of government decision issued in Bucharest on 2 August on establishment of the Transylvanian Studies Center under the Romanian Cultural Foundation]

[Text]

**The Romanian Government decrees:**

**Article 1**

On the date of the present decision, the Transylvanian Studies Center will be reopened within the Romanian Cultural Foundation, with headquarters in Cluj-Napoca.

**Article 2**

The object of the Transylvanian Studies Center is to conduct studies and research on the past, present, and future of Transylvania—one of Romania's fundamental, central provinces—and to publish magazines and other specialized publications.

**Article 3**

The organization and operation of the Transylvanian Studies Center are envisaged in the annex to this decision.

**Article 4**

The outlays required for the organization and operation of the Transylvanian Studies Center will be funded from the budget of the Romanian Cultural Foundation.

**Article 5**

The Ministry of Economy and Finance will make the due modifications in the budget of the central state administration to ensure the implementation of the provisions of the present decision.

Prime Minister, Petre Roman
Bucharest, 2 August 1991
No. 548

**Annex**

**Organization and Operation of the Transylvanian Studies Center**

**Article 1**

The Transylvanian Studies Center will be organized and will operate under the Romanian Cultural Foundation.

**Article 2**

The object of the Transylvanian Studies Center is to conduct studies on the past, present, and future of Transylvania, one of Romania's fundamental and central provinces.

The Transylvanian Studies Center will organize and carry out any activities concordant with its objective, such as: organize scientific events, editorial events for books, newspapers, and magazines, republish works in Romanian and foreign languages, resume the publication of the magazine REVUE DE TRANSYLVANIE, cooperation with men of science and culture in Romania and abroad, conferences in the country and abroad, etc.

**Article 3**

The Transylvanian Studies Center does not have legal status. It will be managed by a scientific council appointed by the president of the Romanian Cultural Foundation. Men of science and culture, politicians, and other prominent personalities of Romanian citizenship may be included in the scientific council.

**Article 4**

The Transylvanian Studies Center will employ hired personnel and volunteers. The Transylvanian Studies Center will resume its activities with the following salaried personnel: one director, one deputy director, one demograph, one ethnologist, one linguist, one historian, one economist, one jurist, one reference worker, and one secretary-typist.

The personnel of the Transylvanian Studies Center will be hired and paid by the Romanian Cultural Foundation on an equivalent basis as its own payroll positions.

The director of the Transylvanian Studies Center will also serve as chairman of the scientific council.

**Article 5**

The structure and organization of the Transylvanian Studies Center will be decided by the Romanian Cultural Foundation.

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